FEDERAL REGISTER

VOLUME 24 NUMBER 93

Washington, Wednesday, May 13, 1959

Title 3—THE PRESIDENT

Proclamation 3291

MOTHER'S DAY, 1959

By the President of the United States of America

A Proclamation

WHEREAS the mothers of America, generation after generation, have given their children their utmost devotion, and by their love, precept, and example have sought to endow them with the ideals, qualities, and strength of a great people; and

WHEREAS American mothers bear a major responsibility in the tasks of maintaining healthy home environments, of training their children with firmness and wisdom, and of guiding their young men and women to mature citizenship; and

WHEREAS it is fitting that we should join on one day of each year in acknowledging and expressing the gratitude we feel in our hearts for our own mothers and for the blessings of motherhood; and

WHEREAS by a joint resolution approved May 8, 1914 (38 Stat. 770), the Congress designated the second Sunday in May of each year as Mother's Day and enjoined the President to request the observance of this occasion in accordance with the provisions of that resolution:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby proclaim Sunday, May 10, 1959, to be Mother's Day; and I direct the appropriate officials of the Government to display the flag of the United States on all Government buildings on that day.

I also call upon the people of the United States to give public and private expression of their love and reverence for the mothers of America on that day through their prayers and other manifestations of their esteem and devotion, and by display of the flag at their homes or other suitable places.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 8th day of May in the year of our Lord nineteen hundred and fifty-
[SEAL] nine, and of the Independence of the United States of America the one hundred and eighty-third.

DWIGHT D. EISENHOWER

By the President:

CHRISTIAN A. HERTER,
Secretary of State.

[F.R. Doc. 59-4070; Filed, May 11, 1959; 1:19 p.m.]

Title 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration

SUBCHAPTER B—FEDERAL FARM LOAN SYSTEM

PART 10—FEDERAL LAND BANKS GENERALLY

Eligibility of Applicants

Section 10.3 of Title 6 of Code of Federal Regulations is amended to read as follows:

§ 10.3 Farming corporations with other operations.

The term "person" includes a corporation engaged in farming operations. Loans may be made to such a corporation provided the farming operations are substantial and there is the required participation therein by the individual stockholders on the farm to be mortgaged as security for the loan.

(Sec. 6, 47 Stat. 14, as amended; 12 U.S.C. 665. Interprets or applies sec. 12 "Sixth", 39 Stat. 370, as amended; 12 U.S.C. 771 "Sixth")

R. B. TOOTELL,
Governor,
Farm Credit Administration.

[F.R. Doc. 59-4010; Filed, May 12, 1959; 8:46 a.m.]

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CFR SUPPLEMENTS

(As of January 1, 1959)

The following supplements are now available:

Title 7, Part 960 to end ($2.25)
Title 16 ($1.75)
Title 50 ($0.75)

Previously announced: Title 3, 1958 Supp. ($0.35); Titles 4–5 ($0.50); Title 7, Parts 1–50, Rev. Jan. 1, 1959 ($4.00); Parts 51–52, Rev. Jan. 1, 1959 ($6.25); Parts 900–959 ($1.50); Title 8 ($0.35); Title 9, Rev. Jan. 1, 1959 ($4.75); Titles 10–13, Rev. Jan. 1, 1959 ($5.50); Title 14, Parts 1–39 ($0.55); Parts 40–399 ($0.55); Part 400 to end ($1.50); Title 18 ($0.25); Title 22–23 ($0.35); Title 24, Rev. Jan. 1, 1959 ($4.25); Title 25 ($0.35); Title 26, Parts 1–79 ($0.20); Parts 80–169 ($0.20); Parts 170–182 ($0.20); Part 300 to end, Title 27 ($0.30); Titles 28–29 ($1.50); Title 32, Parts 700–799 ($0.70); Part 1100 to end ($0.35); Title 32A ($0.40); Title 33 ($1.50); Titles 35–37 ($1.25); Title 38 ($0.55); Title 39 ($0.70); Titles 40–42 ($0.35); Title 43 ($1.00); Titles 44–45 ($0.60); Title 46, Parts 1–145 ($1.00); Parts 146–149, 1958 Supp. 2 ($1.50); Part 150 to end ($0.50); Title 47, Parts 1–29 ($0.70); Part 30 to end ($0.30); Title 49, Parts 1–70 ($0.25); Parts 71–90 ($0.70); Parts 91–164 ($0.40)

Order from Superintendent of Documents, Government Printing Office, Washington 25, D.C.

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

CODIFICATION GUIDE—Con.

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

[C.C.C. Wheat Bulletin A; Acreage Compliance—Price Support Programs for Wheat]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1959-Crop Wheat Price Support Program

Sec.

AUTHORITY: §§ 421.4026 to 421.4031 issued under sec. 4, 62 Stat. 1070 as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 408, 63 Stat. 1054, 68 Stat. 904, sec. 125, 70 Stat. 198; 15 U.S.C. 714c, 7 U.S.C. 1421, 1428, 1441, 1374.

§ 421.4026 Administration.

The price support program for wheat will be administered by the Commodity Stabilization Service, under the general direction and supervision of the Executive Vice-President, Commodity Credit Corporation, and will be carried out in the field by the State and County Agricultural Stabilization and Conservation Committees (hereinafter referred to as State and County Committees). State and county committees do not have authority to modify or waive any of the provisions of this subpart or any amendments or supplements thereto.

§ 421.4027 Applicability of §§ 421.4026 to 421.4031.

Sections 421.4026 to 421.4031 state the eligibility requirements for producers of wheat under the 1959 crop wheat price support program with respect to compliance with wheat acreage allotments, and are in addition to other regulations to be issued by the Commodity Credit Corporation governing eligibility for price support.

§ 421.4028 Definitions.

As used in the regulations in this subpart and in all instructions, forms and documents in connection therewith, the words and phrases defined in this section shall have the meaning assigned to them herein unless the context or subject matter otherwise requires.

(a) "Farm" shall have the same meaning as defined in Part 719 of Title 7, Chapter VII, Reconstitution of Farms, Farm Allotments and Farm History and Soil Bank Base Acreages (23 F.R. 6731), as amended.

(b) The terms "State Committee", "State Administrative Officer", "County Committee", "Person", and "Operator" shall have the same meaning as defined in Part 718, Title 7, Chapter VII, Determination of Acreage and Performance (22 F.R. 3747), as amended.

(c) "Producer" means a person who, as owner, landlord, tenant or sharecropper is entitled to share in the wheat available for marketing from the farm or in the proceeds thereof.

(d) "Wheat acreage allotment" means the wheat acreage allotment established for the farm in accordance with the regulations pertaining to Farm Acreage Allotments for the 1959 Crop of Wheat (7 CFR 728.910 to 728.925; 23 F.R. 1672), March 11, 1958, and any amendments thereto.

(e) "Wheat acreage" means any acreage planted to wheat, and any acreage of volunteer wheat which reaches maturity, but excluding the following: (1) Any acreage of a wheat mixture in wheat-mixture counties, or of a mixture of other grains and wheat in non-wheat-mixture counties which does not contain enough wheat to cause the grain to be graded as "mixed grain" under the Official Grain Standards of the United States; (2) any acreage of wheat cover crop; (3) any acreage of wheat grown for experimental purposes only by or under contract to a publicly-owned agricultural experiment station; (4) any acreage of wheat grown by any Federal or State wildlife refuge farm where all of the wheat on the farm is produced solely for wildlife feed or seed for the production of wildlife feed on such wildlife refuge farm; (5) in case of a delayed notice of excess acreage of wheat, any acreage of unharvested wheat disposed of or destroyed within 15 days after such notice has been mailed to the operator of the farm, by mechanical means or by some cause beyond the control of the operator to the extent it cannot be harvested for grain or used for hay, pasture or silage, and (6) any acreage of unharvested wheat which is seeded in excess of the allotment and which is completely destroyed by some cause beyond the control of the operator (i) prior to 30 days before the date wheat harvest normally begins in the county or areas within the county, as prescribed in 7 CFR 728.855, Wheat Marketing Quota Regulations for 1958 and Subsequent Crop Years (7 CFR 728.850 to 728.895; 23 F.R. 2549) and any amendments thereto, or (ii) within 15 days after a delayed notice of the acreage of wheat is mailed to the operator of the farm. Wheat acreage shall not include any acreage of emmer, spelt, einkorn, Polish wheat and poulard wheat.

(f) "Excess wheat acreage" means the wheat acreage determined for the farm which is in excess of the farm wheat acreage allotment.

(g) "Wheat mixture" means a mixture of wheat and other small grains which (1) when seeded, contained less than 50 percent of wheat by weight, and (2) when harvested, produced less than 50 percent of wheat by weight. An acreage will not be considered as having been devoted to a wheat mixture if the crops other than wheat fail to reach maturity and the wheat is permitted to reach maturity. The seeding of any acreage of flax, Austrian winter peas, rough peas, and vetch with wheat or a mixture of wheat and other small grains will disqualify this acreage from the classification of wheat mixture. Volunteer infestations of flax, Austrian winter peas, rough peas or vetch will not change the classification of a crop otherwise qualifying as a wheat mixture. Such volunteer flax, vetch and peas shall be excluded in determining the percentage of wheat and other small grains in a mixture.

(h) "Wheat cover crop" means the acreage of wheat which does not reach maturity because it is, while still green, turned under, cut off or pastured off, to the extent that wheat will not mature as grain, not later than 30 days prior to the date wheat harvest normally begins in the county or areas within the county as prescribed in 7 CFR 728.855, Wheat Marketing Quota Regulations for 1958 and Subsequent Crop Years (7 CFR 728.850 to 728.895; 23 F.R. 2549) and any amendments thereto.

(i) "Commercial wheat-producing area" means the area designated by the Secretary of Agriculture as the commercial wheat-producing area for the 1959–1960 marketing year. Such designation appears in 7 CFR 728.905; 23 F.R. 1985, March 26, 1958.

(j) "States outside the commercial wheat-producing area" means those States designated by the Secretary of Agriculture as being outside the commercial wheat-producing area for the 1959–1960 marketing year. Such designation appears in 7 CFR 728.905; 23 F.R. 1985, March 26, 1958.

§ 421.4029 Compliance requirements.

(a) *Commercial wheat-producing area.* A producer shall not be eligible for price support on wheat produced in 1959 on a farm in the commercial wheat-producing area unless the 1959 wheat acreage on the farm on which such wheat is produced is not in excess of the wheat acreage allotment: *Provided*, That if a producer has an interest in the 1959 wheat crop produced on any other farm in the same county, he must also be entitled to receive a marketing certificate for each such farm in order to be eligible for price support. Where a producer is engaged in the production of wheat in more than one county (in the same State or in two or more States) and the State or county committee has determined to apply the requirements of 7 CFR

728.867(c), Wheat Marketing Quota Regulations for 1958 and Subsequent Crop Years (7 CFR 728.850 to 728.895; 23 F.R. 2549), and any amendments thereto, to such multiple farm producer, he must be entitled to receive a marketing certificate for each such farm wherever situated, in order for the producer to be eligible for price support on his 1959 crop of wheat. Wheat produced in violation of a restrictive lease on Federally-owned land or produced on any newly irrigated or drained lands within any Federal irrigation or drainage project as provided in section 211 of the Agricultural Act of 1956 shall not be eligible for price support. No wheat produced on any farm which receives an increased allotment under the provisions of Public Law 85–390, applicable in Modoc and Siskiyou Counties, California, shall be eligible for price support.

(b) *States outside the commercial wheat-producing area.* Any producer in States outside of the commercial wheat-producing area shall be eligible for price support without regard to wheat acreage allotments in accordance with other regulations issued by Commodity Credit Corporation governing eligibility for price support. However, wheat produced in violation of a restrictive lease on Federally-owned land or produced on any newly irrigated or drained lands within any Federal irrigation or drainage project as provided in section 211 of the Agricultural Act of 1956 shall not be eligible for price support.

§ 421.4030 Effect of unknowingly exceeding farm wheat acreage allotment; method of determination.

The wheat acreage on a farm shall not be deemed to be in excess of the wheat acreage allotment for the purpose of price support unless the operator knowingly exceeded such allotment. If the wheat acreage allotment is in fact exceeded, such allotment shall be considered as having been knowingly exceeded unless the operator of the farm establishes to the satisfaction of the county committee in accordance with paragraph (a), (b), or (c) of this section that he has not knowingly exceeded his allotment and the determination of the county committee is approved on review by the State committee. The State administrative officer may act in behalf of the State committee with respect to review of determinations under paragraphs (a) and (b) of this section.

(a) *Erroneous notice of acreage allotment.* The wheat acreage allotment for the farm will not be considered to be knowingly exceeded in any case where through error in a county or State office the farm operator was officially notified in writing of a wheat acreage allotment for the 1959 crop which was larger than the finally approved acreage allotment, the farm operator or any producer on the farm acting solely on the information contained in the erroneous notice, planted an acreage to wheat in excess of the finally approved acreage allotment, and where the other conditions of this paragraph are satisfied. The determination of eligibility for price support for the farm under the foregoing circumstances will be based on the acreage allotment contained in the erroneous notice, and if the acreage planted to wheat on the farm is adjusted to the allotment contained in the erroneous notice within the time limits for disposal of excess acreages provided in 7 CFR 728.855, Wheat Marketing Quota Regulations for 1958 and Subsequent Crop Years (7 CFR 728.850 to 728.895; 23 F.R. 2549) and any amendments thereto, the farm will not be considered to be overplanted. Before the farm operator or any producer on the farm can be said to have relied upon the erroneous notice, the circumstances must have been such that he had no cause to believe that the acreage allotment notice was in error. To determine this fact, the date of any corrected notice in relation to the time of planting; the size of the farm; the amount of wheat customarily planted; and all other pertinent facts should be taken into consideration.

(b) *Erroneous notice of measured acreage.* The wheat acreage allotment for the farm will not be considered to be knowingly exceeded in any case where (1) the lack of compliance was caused by reliance in good faith by the farm operator on an erroneous notice of measured acreage issued in accordance with applicable regulations; (2) neither the farm operator nor any producer on the farm had actual knowledge of the error in time to adjust the excess acreage in accordance with applicable regulations; (3) the incorrect notice was the result of an error made by an employee of the county or State office in reporting, computing, or recording the allotment crop acreage for the farm; (4) neither the farm operator nor any producer on the farm was in any way responsible for the error; and (5) the extent of the error in the erroneous notice was such that the farm operator would not reasonably be expected to question the acreage of which he was erroneously notified.

(c) *Failure to measure acreage or notify operator.* The wheat acreage allotment for the farm will not be considered to be knowingly exceeded in any case where through no fault of the farm operator or any producer on the farm the wheat acreage was not measured or the farm operator was not notified of the measured acreage in time to dispose of the excess acreage prior to the final date for the disposition of excess acreage: *Provided,* That the excess acreage was relatively small and the farm operator establishes that because of the relative smallness of the excess and the unavailability to him of any recent measurements of the field acreages on the farm, he had no reason to believe the wheat acreage was in excess of the farm acreage allotment. Nothing in this paragraph (c) shall affect any producer's liability for penalties on excess wheat determined under the Wheat Marketing Quota Regulations for 1958 and Subsequent Crop Years (7 CFR 728.850 to 728.895; 23 F.R. 2549), and any amendments thereto.

§ 421.4031 Application for review and request for reconsideration.

Any producer who is dissatisfied with any determination with respect to compliance with his wheat acreage allotment may, within 15 days after the date of mailing to him Form MQ–24, "Notice of Farm Acreage Allotment and Marketing Quota," or Form MQ–93—Wheat, "Notice of Farm Marketing Quota and Farm Marketing Excess of Wheat," file a written application for review of such determination by a review committee: *Provided,* That such application for review is based on a determination which the producer has the right to have reviewed under 7 CFR 711.13, Marketing Quota Review Regulations as issued by the Secretary of Agriculture (7 CFR Part 711; 21 F.R. 9365), and any amendments thereto. Unless application for review is made within such 15-day period, such determination shall be final.

Issued this 8th day of May 1959.

TRUE D. MORSE,
Acting Secretary.

[F.R. Doc. 59–4038; Filed, May 12, 1959; 8:50 a.m.]

Title 7—AGRICULTURE

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

[Amdt. 4]

PART 722—COTTON

Subpart—The Regulations Pertaining to Marketing Quotas for Upland Cotton of the 1958 and Succeeding Crops

MISCELLANEOUS AMENDMENTS INCLUDING IDENTIFICATION OF CHOICE (A) AND CHOICE (B) UPLAND COTTON

Basis and purpose. The purpose of this amendment is to make various minor language changes and also to implement section 102(a) of the Agricultural Act of 1949, as amended (72 Stat. 988; 7 U.S.C. 1443(a)) which provides for Choice (A) and Choice (B) farm allotments for the 1959 and 1960 crops of upland cotton. The amendment contained herein is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.).

Notice of proposed amendment of the cotton marketing quota regulations for the 1958 and succeeding crops of upland cotton was published in the FEDERAL REGISTER on March 19, 1959 (24 F.R. 2090) in accordance with section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) and the data and recommendations received in response to such notice have been duly considered.

In order that the Agricultural Stabilization and Conservation State and county committees may perform their functions in an orderly manner, it is essential that this amendment be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date provisions of the Administrative Procedure Act is impracticable and contrary to the public interest and this amendment shall be effective upon filing

of this document with the Director, Office of the Federal Register.

The regulations pertaining to marketing quotas for upland cotton of the 1958 and succeeding crops (23 F.R. 3231, 5533, 6588, 9630) are amended as follows:

§ 722.2 [Amendment]

(1) Subparagraph (6) of § 722.2(c) is amended to read as follows:

(6) "Buyer" means a person who acquires cotton from a producer by purchase. A person acting as a purchasing agency pursuant to a Cotton Purchasing Agency Agreement with Commodity Credit Corporation shall be deemed to be a "buyer" with respect to any cotton acquired by such purchasing agency which is subject to marketing quotas as provided in § 722.8. Also, an agricultural cooperative association which makes purchase and sale agreements with producers, or marketing agreements under which the title to cotton passes upon delivery of cotton by the producer and the association is authorized to deal with such cotton as owner, shall be deemed to be a "buyer" with respect to any cotton acquired pursuant to such an agreement which is subject to marketing quotas as provided in § 722.8.

2. Section 722.15 is amended to read as follows:

§ 722.15 Successors-in-interest.

Any person who succeeds to the interest of a producer in a farm, or in a cotton crop produced on a farm, for which a farm marketing quota and a farm marketing excess were established, including a farm on which cotton was planted in a crop year but for which a farm cotton allotment was not established for such crop year, shall, to the same extent as his predecessor, except as provided in the applicable acreage allotment regulations with respect to election of Choice (A) and Choice (B) farm allotments, be entitled to all the rights and privileges incident to such marketing quota and marketing excess and be subject to the penalty on the farm marketing excess and to the lien on the entire crop of cotton and to the restrictions on the marketing of cotton.

§ 722.17 [Amendment]

3. Paragraphs (a) and (d) of § 722.17 are amended to read as follows:

(a) *Producers eligible to receive marketing cards.* Except as otherwise provided in this section the operator and any other producer on a farm, or an official of a publicly owned agricultural experiment station, shall be eligible to receive a marketing card (Form MQ–76–A Upland or MQ–76–B Upland) for each crop of cotton if for such crop (1) no farm marketing excess is determined for the farm, or (2) an amount equal to the penalty on the farm marketing excess has been received by the treasurer for the county in which the farm is located, except that a marketing card shall not be issued under subparagraph (1) or (2) of this paragraph if any producer on the farm has on hand any cotton produced in previous crop years on which the penalty was incurred and has not been paid. For the 1959 and 1960 crop years an eligible producer interested in the cotton production on a Choice (A) allotment farm shall be eligible to receive a marketing card, identified as Form MQ–76–A Upland, for such farm and an eligible producer interested in the cotton production on a Choice (B) allotment farm shall be eligible to receive a marketing card, identified as Form MQ–76–B Upland, for such farm.

* * * * *

(d) *Preparation and issuance of marketing cards to producers.* A marketing card shall be issued to the operator of the farm for any year if he is eligible to receive it under the foregoing provisions of this section and, if the county committee or the county office manager determines that it will serve a useful purpose, marketing cards for such year shall also be issued to the other eligible producers on the farm. Each serially numbered marketing card when completed shall show: (1) The State and county code and farm serial number, (2) the name and address of the farm operator, (3) the name, address, and signature of the producer to whom issued, (4) such additional information and data as may be prescribed by the deputy administrator, and (5) either (i) the actual or facsimile signature of the county office manager or a member of the county committe, or (ii) the name of the county office manager as written by an employee of the county office. A facsimile signature may be affixed by the person whose name is being affixed or by an employee of the county office. Where the name of the issuing officer is affixed by an employee of the county office, such employee shall, if required by the person whose name is being affixed, place his initials immediately below the name of the issuing officer on the marketing card. Where the producer designates an agent to use his marketing card, the card shall also show: (*a*) The name and address of the agent authorized to use the marketing card and (*b*) the signatures of the producer and the agent.

§ 722.18 [Amendment]

4. Section 722.18(a) is amended to read as follows:

(a) *Use of marketing certificates.* There shall be issued to a producer upon his request a marketing certificate (Form MQ–91—Cotton (Upland)) to permit the marketing of cotton (1) by any such producer (i) who has an unexpired marketing card for use in identifying the cotton to be marketed or is eligible to receive such a marketing card and who desires to market such cotton by telegraph, telephone, mail, or by any other means or method other than directly to and in the presence of the buyer or transferee; (ii) who desires to market cotton which he has on hand from any prior crop, except cotton from a previous crop on which the penalty was incurred and has not been paid; (iii) who desires to market cotton produced by him on a farm with no farm marketing excess but he is not eligible to receive a marketing card under §722.17(b) because he or another producer on such farm is also a cotton producer on a farm with a farm marketing excess and the penalty has not been paid; or (iv) who desires to market his share of the cotton produced on a farm with no farm marketing excess or on a farm on which the penalty on the farm marketing excess has been paid but he was denied a marketing card by the county committee because it deemed such action necessary to enforce the provisions of the act, and (2) any other producer who has cotton not subject to the penalty or on which the penalty has been paid and such producer is not eligible to receive a marketing card or does not have a loan document as prescribed in §722.24. In instances where the acreage planted to cotton on the farm has not been determined through no fault of the operator, and he, in applying for marketing certificates, certifies that he has cotton produced in that crop year available for marketing and that to the best of his knowledge and belief the acreage planted to cotton on the farm does not exceed the farm allotment, the county committee or the county office manager may issue marketing certificates for his farm in a total amount not exceeding the product of the farm allotment for that crop year multiplied by the smaller of the county normal yield per acre for that crop year or the estimated actual yield per acre for such crop year on the farm. Also, certificates shall be issued in any case where a person has loose cotton such as field scrap cotton, sample trimmings, floor sweepings, and cotton picked up from the roadside provided that such person establishes to the satisfaction of the county committee that such cotton was acquired through normal off-farm handling or trade customs, was field scrap cotton, was waste cotton picked up on the roadside or similar location, or was acquired in some other similar manner.

§ 722.19 [Amendment]

5. Section 722.19(b) is amended to read as follows:

(b) *Investigation and findings by county office manager and county committee.* If the county office manager finds that an unexpired marketing card or certificate issued to a producer has been lost, destroyed, or stolen, he shall investigate to determine whether there has been any collusion or connivance on the part of the producer to or for whom the marketing card or certificate was issued to fraudulently obtain a second marketing card or certificate. If investigation discloses no evidence of collusion or connivance, a replacement marketing card or certificate may be issued to the producer by the county office manager and a notice in writing cancelling the lost, destroyed, or stolen marketing card or certificate shall be signed by the county office manager and mailed to the last known address of such producer. Where circumstances appear to warrant investigation by the county committee before a replacement marketing card or certificate is issued, the case should be referred to the county committee for a determination as to the action to be taken. Each marketing card or certificate issued under this section shall bear across its face in bold letters the word "Duplicate". In case the lost, de-

stroyed, or stolen marketing card or certificate is not recovered promptly, the county office manager shall notify the ginner-buyers, buyers, and Commodity Credit Corporation loan clerks in the county or in the immediate market area that the marketing card or certificate has been cancelled and that a duplicate has been issued. A report of the findings and action of the county office manager and of any action by the county committee shall be kept among the county office records. Any person coming into possession or control of a marketing card or certificate which has been cancelled shall immediately return it to the county office which issued it.

6. Section 722.20 is amended to read as follows:

§ 722.20 Cancellation of marketing cards and marketing certificates.

(a) *Cancellation of marketing cards and marketing certificates issued in error.* In the event any marketing card or marketing certificate was erroneously issued, the producer to whom it was issued shall be requested to return it to the county office and upon its being returned it shall be cancelled by the county office manager by endorsing thereon in bold letters the word "Cancelled". Without awaiting its return, the county office manager shall notify the producer in writing at his last known address that it is void and of no effect. The county office manager shall notify the ginner-buyers, buyers, and Commodity Credit Corporation loan clerks in the county, or in the immediate market area that the marketing card or certificate has been cancelled. A copy of the notice, containing a notation thereon of the date of mailing, shall be kept among the records of the county office.

(b) *Cancellation of marketing cards which may be misused.* In the event the county committee determines that a marketing card has been, or will be, misused such marketing card shall be cancelled and the producer to whom it was issued shall be so notified and requested to return it to the county office. Without awaiting its return, the county office manager shall notify the ginner-buyers, buyers, and Commodity Credit Corporation loan clerks in the county, or in the immediate market area that the marketing card has been cancelled. A copy of the notice of cancellation, containing a notation thereon of the date of mailing, shall be kept among the records of the county office. Any producer whose marketing card is cancelled under this provision shall, upon his request, be issued marketing certificates in accordance with § 722.18(a).

7. Section 722.22 is amended to read as follows:

§ 722.22 Identification by marketing card.

A marketing card (Form MQ–76–A Upland or Form MQ–76–B Upland) shall, when presented to the buyer or transferee by the producer to whom issued, be evidence to the buyer or transferee that the cotton produced on the farm in the crop year for which the marketing card was issued may be purchased by him without collection, deduction, or payment of the penalty, and that such cotton is not subject to the lien for the penalty.

§ 722.30 [Amendment]

8. Section 722.30(a) is amended to read as follows:

(a) *Buyers and transferees liable for payment of penalty.* Each person within the United States who buys or acquires from the producer any cotton subject to the lien for the penalty shall be liable for and shall pay the penalty thereon. Cotton shall be presumed to be subject to the lien for the penalty unless the producer presents to the buyer or transferee a marketing card (Form MQ–76–A Upland or Form MQ–76–B Upland), a marketing certificate (Form MQ–91—Cotton (Upland)), or a loan document, as provided in §§ 722.22, 722.23, and 722.24.

§ 722.36 [Amendment]

9. Section 722.36(c) is amended to read as follows:

(c) *Requests for reports.* Each ginner, upon written request of the State committee, State administrative officer, or county committee, shall make a report showing the information provided for in this section, or any part thereof as specified in the request, with respect to cotton ginned for the person or persons specified in the request or for the period of time specified in the request. This report shall be filed not later than the date designated by the State committee, State administrative officer, or county committee in the written request for such report.

§ 722.37 [Amendment]

10. The title of § 722.37(d) is corrected to read as follows:

(d) *Reports in connection with cotton identified by marketing certificates.*

11. Section 722.37(g) is amended to read as follows:

(g) *Buyer's record and report.* In the event the county committee, the State committee, or State administrative officer has reason to believe that any buyer failed or refused to collect or to remit the penalty required to be collected by him for any cotton which he purchased, or otherwise in any manner failed or refused to comply with §§ 722.1 to 722.51, the buyer shall, within fifteen days after a written request therefor by either the county committee, State committee, or State administrative officer is sent to him by certified mail at his last known address, make a report verified as true and correct on Form MQ–100—Cotton (Upland) to the designated county committee treasurer with respect to cotton purchased or acquired by him from the person or persons specified in the request or purchased or acquired by him during the period of time specified in the request. Such report shall include the following information for each bale of cotton, and each lot of cotton less than a bale, purchased by such buyer: (1) The name and address of the producer from whom the cotton was purchased; (2) the date on which the cotton was purchased; (3) the original gin bale number, or if there is no gin bale number, the gin bale mark or other information showing the origin or source of the cotton and, in the case of cotton purchased in the seed, the number of pounds of seed cotton and the known or estimated amount of lint in such seed cotton; (4) the net weight of each bale of cotton, and of each lot of lint cotton less than a bale, purchased from the producers; (5) the amount of penalty required to be collected under §§ 722.1 to 722.51 and the amount of any penalty collected in connection with the cotton purchased from the producer; and (6) the serial number of the marketing card or marketing certificate or a brief description of the loan document by which the cotton was identified when marketed (if the cotton was identified by a loan document when marketed, enter the loan number and the crop year or the form number of the CCC loan document and the date of the loan).

§ 722.46 [Amendment]

12. Section 722.46(a) is amended to read as follows:

(a) *Erroneous notice of cotton allotment.* In any case where through error the producer is officially notified in writing of a farm allotment larger than the final approved farm allotment and it is found by the county committee that such producer, acting solely on the information contained in the erroneous notice, planted an acreage to cotton in excess of the final approved farm allotment, the producer will not be considered to have exceeded the farm allotment unless he planted an acreage in excess of the allotment shown on the erroneous notice. Before a producer can be said to have relied upon the erroneous notice the circumstances must have been such that the producer had no cause to believe that the allotment notice was in error. To determine this fact, the date of any corrected notice in relation to the time of planting; the size of the farm; the amount of cotton customarily planted; and all other pertinent facts should be taken into consideration. The determination by the county committee under this section shall be subject to the approval of the State committee or the State administrative officer. The acreage planted to cotton on the farm in excess of the final approved allotment shall be considered as excess acreage for purposes of § 722.47.

(Sec. 375, 52 Stat. 66, as amended; 7 U.S.C. 1375. Interpret or apply sec. 102, 72 Stat. 988; 7 U.S.C. 1443)

Issued at Washington, D.C., this 8th day of May 1959.

WALTER C. BERGER,
Administrator,
Commodity Stabilization Service.

[F.R. Doc. 59–4039; Filed, May 12, 1959; 8:50 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), AND NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS); PROHIBITED AND RESTRICTED IMPORTATIONS

Imports of Certain Meats From Specified Countries Prohibited

Pursuant to section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306) and section 2 of the Act of February 2, 1930, as amended (21 U.S.C. 111), the provisions in Part 94 of Title 9, Code of Federal Regulations, as amended, are hereby further amended as follows:

1. Section 94.4(a)(3) is amended to read:

(3) The meat shall have been thoroughly cured and fully dried in such manner that it may be stored and handled without refrigeration, as in the case of salami and other summer sausages, tasajo, xarque, or jerked beef, bouillon cubes, dried beef, and Westphalia, Italian, and similar type hams.

2. Section 94.4(a)(4) is deleted.

3. Section 94.4(b)(3) is amended to read:

(3) When so directed by the Director of the Animal Inspection and Quarantine Division, such meat shall be consigned directly from the port of entry to a meat-processing establishment operating under Federal meat inspection that has been approved by him for the further processing of such meat. Such meat shall be shipped from the port of entry to the approved establishment under Customs seals or seals of the Division and shall be otherwise handled as the said Director of Division may direct. Seals applied under authority of this section shall not be broken except by persons authorized to do so by the said Director of Division.

(Sec. 2, 32 Stat. 792, as amended, sec. 306, 46 Stat. 689, as amended; 19 U.S.C. 1306, 21 U.S.C. 111)

The foregoing amendments will provide additional necessary safeguards against the introduction into the United States of dangerous communicable diseases of livestock, such as foot-and-mouth disease and must be made effective promptly to protect the public. Therefore under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure on the amendments would be impracticable and contrary to the public interest and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

The amendments shall become effective at midnight, May 15, 1959, except that imports which the Director of the Animal Inspection and Quarantine Division finds were in transit on said date will be permitted importation in accordance with the provisions in effect immediately prior to said date.

Done at Washington, D.C., this 11th day of May 1959.

M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 59-4073; Filed, May 12, 1959; 8:50 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 54848]

PART 16—LIQUIDATION OF DUTIES

Correction of Certain Errors and Mistakes

The purposes of the amendment of § 16.13 of the Customs Regulations (19 CFR 16.13) set forth below are to broaden and clarify further the authority of collectors of customs to correct errors of the type cognizable under section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)). This is accomplished by authorizing collectors to take appropriate action, pursuant to section 520(c)(1), to correct a clerical error, mistake of fact or other inadvertence in any entry, liquidation, appraisement, or other customs transaction subject, of course, to the statutory restrictions and certain other limitations specified in amended § 16.13.

Existing regulations permit collectors to adjust some, but not all, types of errors in appraisement which are correctible under section 520(c)(1), as amended. This amendment removes that restriction. The law authorizes correction of errors in appraisement and basically the standards for determining the types of errors in appraisement which are correctible are the same as the standards applicable in the case of errors in entries, liquidations, or other customs transactions. A clerical error, mistake of fact, or other inadvertence not amounting to an error in the construction of a law are the types of errors in appraisement which the law expressly authorizes to be corrected.

Other changes in phraseology and arrangement of § 16.13 are also made including a statement which is declaratory of the collector's authority to deal with error situations independent of section 520(c)(1).

The statement to follow is designed to provide general guidelines for collectors and others concerned in considering matters arising under § 16.13. No attempt is made to state all-inclusive definitions or descriptions of terms. The examples of types of situations are given merely for illustration and are not to be taken as covering all types.

Clerical error occurs when a person intends to do one thing but does something else, e.g., he meant to write "par. 231" but wrote "par. 131". It includes mistakes in arithmetic and the failure to associate all the papers in a record under consideration.

Mistake of fact occurs when a person believes the facts to be other than they really are and takes some action based on that erroneous belief. The reason for the belief may be that a fact exists but is unknown to the person or he may be convinced that something is a fact when in reality it is not. For example, an importer's agent may be convinced that the importer wishes him to make a consumption entry for goods and he does so. The true fact is that the importer desired an in-bond entry to be made in the particular case. If the true facts had been known to the agent, an in-bond entry would have been filed.

Inadvertence connotes inattention, oversight, negligence, or lack of care. For example, an article might be classified properly under a paragraph providing for it by name but through oversight is given a rate different from any rate provided under that paragraph.

It should be noted that "clerical error, mistake of fact, or other inadvertence" are not necessarily mutually exclusive terms. In other words some "mistakes of facts" also might be clerical errors or other inadvertence; or some "clerical errors" also might be mistakes of fact or other inadvertence, and so on.

Error in the construction of a law occurs when a person knows the true facts of a case but has a mistaken belief of the legal consequences of those facts and acts on that mistaken belief. For example, the exact physical properties of certain merchandise and all other pertinent facts for classification of that merchandise are known. In applying the law the merchandise is classified as an entirety but it should have been classified as separate articles. Or the claim is made that an appraiser acted on incomplete information but the appraiser concludes he would have acted in the same way even if the missing information had been before him. If the appraiser errs in such a case, he commits error of law.

Section 16.13 of the Customs Regulations is amended to read as follows:

§ 16.13 Errors, mistakes and inadvertencies, correction of.

(a) Collectors of customs have broad responsibility and authority, independent of section 520(c)(1), Tariff Act of 1930, as amended, to take appropriate action to insure that the rate and amount of duty assessed on imported merchandise is correct and that the transaction is otherwise in accordance with law. Such action may be taken in connection with (1) the liquidation of an entry, (2) a voluntary reliquidation completed within 60 days after liquidation, (3) a voluntary correction of an exaction within 60 days after the exaction was made, (4) a reliquidation made pursuant to a valid protest covering the particular merchandise as to which a change or adjustment is in order, or (5) the adjustment, pursuant to valid protest, of a transaction or decision which is neither a liquidation nor a reliquidation. The authority extends to errors in the construction of a law and to errors adverse to the Government as well as the importer. In exercising that authority collectors cannot

consider errors in appraisement. The extent of the collector's authority with respect to appraisement errors is set forth in paragraphs (b) and (c) of this section.

(b) Pursuant to section 520(c)(1), Tariff Act of 1930, as amended, notwithstanding a valid protest was not filed, the collector may correct by reliquidation or other appropriate action a clerical error, mistake of fact, or other inadvertence in any entry, liquidation, appraisement (subject to paragraph (c) of this section), or other customs transaction if the error, mistake of fact, or other inadvertence:

(1) Does not amount to an error in the construction of a law;

(2) Is adverse to the importer;

(3) Is manifest from the record or established by documentary evidence; and

(4) Is brought to the attention of the Customs Service:

(i) Within 1 year after the date of entry, appraisement, or other transaction (including a liquidation, reliquidation, or exaction) if the error, mistake of fact or other inadvertence is in the entry, appraisement, or other transaction (including a liquidation, reliquidation, or exaction), or

(ii) Except in cases where the error is in liquidation, reliquidation, or exaction in which case subdivision (i) of this subparagraph shall apply, within 60 days after liquidation or exaction when the liquidation or exaction is made more than ten months after the date of entry, appraisement or other transaction.

(c) If the alleged error, mistake of fact or other inadvertence to be considered under paragraph (b) of this section is in an appraisement, the appraiser shall submit a report and recommendation to the collector. If the collector believes that action different from that recommended by the appraiser should be taken and the difference cannot be resolved locally, the matter shall be submitted to the Bureau for decision.

(Secs. 514, 520, 46 Stat. 734, 739, as amended; 19 U.S.C. 1514, 1520)

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: May 6, 1959.

A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F.R. Doc. 59-4033; Filed, May 12, 1959; 8:49 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 54—GUARANTY OF LOANS TO CARRIERS BY RAILROAD

Prescription of Guaranty Fees in Connection With Loans Guaranteed Under Part V of the Interstate Commerce Act

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 4th day of May A.D. 1959.

It appearing, that, under part V of the Interstate Commerce Act, as amended, (72 Stat. 568), rules and regulations were adopted on August 14, 1958, by the Interstate Commerce Commission governing applications under said part V for the guaranty of loans to common carriers by railroad (49 CFR Part 54, 23 F.R. 6503);

It further appearing, that § 54.3 of said rules and regulations provide that guaranty fees to be paid to the Commission on or before the date of closing of any such guaranteed loan shall be in such amount as the Commission may thereafter determine and prescribe as necessary to cover the administrative costs of carrying out the provisions of said part V; and due consideration having been given to the foregoing;

It is ordered, That, effective as of the date of this order, such guaranty fee, payable on or before the closing date of any guaranteed loan, shall be in an amount equal to three-eighths of one percent of the total principal amount of the loan guaranteed.

It is further ordered, That notice of this order be given to the general public by posting copies in the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and by filing with the Director, Office of the Federal Register, Washington, D.C.

(Part V, sec. 12, 24 Stat. 383, as amended by 72 Stat. 568)

By the Commission.

[SEAL] HAROLD D MCCOY,
Secretary.

[F.R. Doc. 59-4013; Filed, May 12, 1959; 8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 9—COLOR CERTIFICATION

Order Acting on Proposals To Amend Color-Certification Regulations With Respect to Lakes

In the matter of amending the color-certification regulations with respect to lakes:

A notice of proposed rule making was published in the FEDERAL REGISTER of February 6, 1959 (24 F.R. 909), setting forth proposals that provisions in the color-certification regulations applying to lakes of FD&C colors (currently not certified for food usage other than for external application to shell eggs) be amended to permit additional uses, and that provisions applying to lakes of D&C and EXT D&C colors be amended by adding calcium carbonate to the lists of permitted substrata. The notice invited all interested persons to submit written comments.

After consideration of the information furnished by the petitioners and that submitted in response to the invitation for comments, together with other relevant information, it is concluded that adoption of the proposed amendments to the color-certification regulations will provide for the certification of batches of coal-tar colors that are harmless and suitable for use. Accordingly, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 406, 504, 604, 701; 52 Stat. 1049, 1052, 1055, as amended 70 Stat. 919; 21 U.S.C. 346, 354, 364, 371), and delegated to the Commissioner of Food and Drugs (22 F.R. 1045, 23 F.R. 9500): *It is ordered,* That the color-certification regulations (21 CFR 9.3, 9.4, 9.5, 9.6, 9.10, 9.11 (24 F.R. 2873, 2945)) be amended as set forth below:

1. Section 9.3 *List of straight colors and specifications for their certification for use in food, drugs, and cosmetics* is amended in the following respects:

a. Paragraph (a) is amended by deleting the parenthetical phrase "(subject to the restrictions prescribed by paragraph (c) of this section)" from the introduction to the paragraph.

b. Paragraph (a) is further amended by inserting the word "certified" preceding the words "water-soluble straight colors", under the caption "Lakes". As amended, this sentence reads as follows:

Any lake made by extending on a substratum of alumnia, a salt prepared from one of the certified water-soluble straight colors listed in this paragraph by combining such color with the basic radical aluminum or calcium.

c. Paragraph (a) is further amended by deleting the text under the caption "Lakes * * * Specifications" and inserting the following:

SPECIFICATIONS

Prepared from previously certified colors listed in this paragraph.

Soluble chlorides and sulfates (as sodium salts), not more than 2.0 percent.

Inorganic matter, insoluble in CHl, not more than 0.5 percent.

d. Section 9.3 is further amended by deleting paragraph (c).

2. In § 9.4 *List of straight colors and specifications for use in drugs and cosmetics,* paragraph (a) is amended by adding the words "calcium carbonate" to the list of substrata under the caption "Lakes", so that as amended the list reads as follows:

Any lake, other than those listed in § 9.3, made by extending on a substratum of alumina, blanc fixe, gloss white, clay, titanium dioxide, zinc oxide, talc, rosin, aluminum benzoate, calcium carbonate, or any combination of two or more of these * * *.

3. In § 9.5 *List of straight colors and specifications for their certification for use in externally applied drugs and cosmetics,* paragraph (a) is amended by adding the words "calcium carbonate" to the list of substrata under the caption "Lakes", so that as amended the list reads as follows:

Any lake made by extending on a substratum of alumina, blanc fixe, gloss white, clay, titanium dioxide, zinc oxide, talc, rosin, aluminum benzoate, calcium carbonate, or any combination of two or more of these * * *.

4. Section 9.6 *Mixtures which may be certified* is amended in the following respects:

a. Paragraph (a) is amended by deleting the parenthetical phrase "(subject to the restrictions prescribed in paragraph (d) of this section)".

b. Section 9.6 is further amended by deleting paragraph (d).

5. Section 9.10 *Limitations of certificates* is amended by deleting paragraph (i).

6. In § 9.11 *Labeling*, paragraph (a) (4) is amended by deleting the phrase "any lake listed in § 9.3 or".

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, shall specify with particularity the provisions of the order deemed objectionable and the grounds for the objections, and shall request a public hearing upon the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER, except as to any provision that may be stayed by the filing of objections thereto. Notice of the filing of objections, or lack thereof, will be announced by publication in the FEDERAL REGISTER.

(Sec. 701, 72 Stat. 1055, as amended, 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 371. Interprets or applies secs. 406(b), 504, 604, 52 Stat. 1046, 1052; 21 U.S.C. 346(b), 354, 364)

Dated: May 7, 1959.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 59-4026; Filed, May 12, 1959; 8:48 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 27—CANNED FRUITS AND CANNED FRUIT JUICES; DEFINITIONS AND STANDARDS OF IDENTITY; QUALITY; AND FILL OF CONTAINER

Effective Date of Order Establishing Standards of Identity for Certain Artificially Sweetened Canned Fruits

In the matter of establishing definitions and standards of identity for artificially sweetened peaches, artificially sweetened apricots, artificially sweetened pears, artificially sweetened cherries, artificially sweetened fruit cocktail, and artificially sweetened figs:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055, as amended 70 Stat. 919; 21 U.S.C. 371) and delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (22 F.R. 1045, 23 F.R. 9500), notice is hereby given that no objections were filed to the order published in the FEDERAL REGISTER of March 25, 1959 (24 F.R. 2304). Accordingly, the regulations promulgated by that order are effective on and after June 23, 1959.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies sec. 401, 52 Stat. 1046, as amended; 21 U.S.C. 341)

Dated: May 7, 1959.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 59-4021; Filed, May 12, 1959; 8:47 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME AND EXCESS PROFITS TAXES

[T.D. 6378; T.D. 4914]

PART 9—INCOME TAX UNDER THE REVENUE ACT OF 1938

Corporation Returns To Be Given Particular Attention

Treasury Decision 4914, relating to corporation returns to be given particular attention to determine the applicability of section 102 of the Internal Revenue Code of 1939, and the corresponding section of the Revenue Act of 1938, amended to limit its application to taxable years to which the Internal Revenue Code of 1939 and the Revenue Act of 1938 are applicable.

In order to make the provisions of Treasury Decision 4914, approved July 26, 1939 (4 F.R. 3443, published in part as a note following 26 CFR, 1939 Supp., 9.102-2), as amended by Treasury Decision 5398, approved August 12, 1944 (9 F.R. 9944), applicable only to taxable years to which the Internal Revenue Code of 1939 and the Revenue Act of 1938 are applicable, Treasury Decision 4914 is further amended by adding at the end thereof the following new section:

The rules provided in this Treasury Decision shall not be applied with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

Because this Treasury decision merely prevents the application of Treasury Decision 4914, as amended, to taxable years to which the Internal Revenue Code of 1954 applies, it is hereby found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

(53 Stat. 32, 467; 26 U.S.C. 62, 3791)

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: May 8, 1959.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

[F.R. Doc. 59-4037; Filed, May 12, 1959; 8:50 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 6377]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Miscellaneous Amendments

On January 15, 1958, notice of proposed rule making regarding the regulations under sections 531 through 537 of the Internal Revenue Code of 1954, as amended by the Act of August 11, 1955 (Public Law 367, 84th Cong., 69 Stat. 689), relating to corporations improperly accumulating surplus, was published in the FEDERAL REGISTER (23 F.R. 271). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so published are hereby adopted subject to the changes set forth below in paragraphs 1 through 12 to reflect such consideration and to incorporate those changes required by sections 31 and 89(b) of the Technical Amendments Act of 1958 (72 Stat. 1631 and 1665) and by section 205 of the Small Business Tax Revision Act of 1958 (72 Stat. 1680). In addition paragraphs 13 and 14 below amend the Income Tax Regulations (26 CFR (1954) Part 1) to conform §§ 1.1551 and 1.1551-1 of such regulations to section 205 of the Small Business Tax Revision Act of 1958 (72 Stat. 1680). The regulations adopted by this Treasury decision are effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954, except as otherwise expressly provided.

PARAGRAPH 1. Section 1.531-1 is revised by inserting the following new sentence immediately after the first sentence thereof: "In the case of an affiliated group which makes, or is required to make, a consolidated return, see paragraph (a) of § 1.1502-30."

PAR. 2. Paragraph (a) of § 1.533-1 is revised.

PAR. 3. Section 1.534 is revised as follows:

(A) The first sentence of section 534 (b) is changed by striking out "registered mail" and inserting in lieu thereof "certified mail or registered mail".

(B) The historical note is changed by inserting before the bracket at the end thereof the following: "; sec. 89(b), Technical Amendments Act 1958 (72 Stat. 1665)"

PAR. 4. Section 1.534-2 is revised as follows:

(A) The last sentence of paragraph (a)(2) is changed to read as follows: "However, the burden of proof in the latter case is upon the Commissioner only with respect to the relevant ground or grounds set forth in the statement submitted by the taxpayer, and only if such ground or grounds are supported by facts (contained in the statement) sufficient to show the basis thereof."

(B) Paragraph (b)(2) is changed.

(C) The first sentence of paragraph (c) is changed by inserting "(or by certified or registered mail, if the notification is mailed after September 2, 1958)" after the word "mail".

(D) The second sentence of paragraph (d)(1) is changed. "Such statement shall set forth the ground or grounds (together with facts sufficient to show the basis thereof) on which the taxpayer relies to establish that there has been no accumulation of earnings and profits beyond the reasonable needs of the business."

PAR. 5. The first sentence of § 1.534–3 is revised by inserting "(or by certified or registered mail, if the notice is mailed after September 2, 1958)" after the word "mail".

PAR. 6. Section 1.535 is revised as follows:

(A) Section 535(b)(2) is changed by striking "the limitation in".

(B) Section 535(b)(6)(B) is changed.

(C) Section 535(c)(2) is changed by striking "$60,000" and inserting in lieu thereof "$100,000".

(D) Section 535(c)(3) is changed by striking "$60,000" and inserting in lieu thereof "$100,000".

(E) The following historical note is added at the end thereof:

[Sec. 535 as amended by sec. 31, Technical Amendments Act 1958 (72 Stat. 1631); sec. 205, Small Business Tax Revision Act 1958 (72 Stat. 1680)]

PAR. 7. Paragraph (a) of § 1.535–1 is revised by inserting the following new sentence immediately after the second sentence thereof. "See paragraph (a)(13) of § 1.1502–31 for definition of consolidated accumulated taxable income."

PAR. 8. Paragraph (b) of § 1.535–2 is revised as follows:

(A) By striking "the limitation in" in the first sentence.

(B) By striking the first word "Any" in the last sentence and inserting in lieu thereof "However, any".

PAR. 9. Section 1.535–3 is revised as follows:

(A) The following new sentence is added at the end of paragraph (a): "See paragraph (a)(19) of § 1.1502–31 for the consolidated accumulated earnings credit.

(B) The last sentence of paragraph (b)(1)(i) is revised to read as follows: "See section 561 and §§ 1.561–1 and 1.561–2, relating to the deduction for dividends paid."

(C) Paragraph (b)(2) is changed by striking "$60,000" wherever it appears therein and inserting in lieu thereof "$100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958)".

(D) Example (2), appearing in paragraph (b)(3), is changed.

(E) Paragraph (c) is changed by striking "$60,000" wherever it appears therein and inserting in lieu thereof "$100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958)".

(F) The last sentence of paragraph (d) is revised to read as follows: "See section 563 and §§ 1.563–1 and 1.563–3, relating to dividends paid after the close of the taxable year."

PAR. 10. Section 1.537–1 is revised as follows:

(A) The fifth sentence of paragraph (a) is changed to read as follows: "The extent to which earnings and profits have been distributed by the corporation may be taken into account in determining whether or not retained earnings and profits exceed the reasonable needs of the business."

(B) Paragraph (b)(1) is changed.

(C) The last sentence of paragraph (b)(2) is changed to read as follows: "If a corporation has justified an accumulation for future needs by plans never consummated, the amount of such an accumulation shall be taken into account in determining the reasonableness of subsequent accumulations."

PAR. 11. Section 1.537–2 is revised as follows:

(A) Paragraph (b)(1) is changed.

(B) Paragraph (c) is changed.

PAR. 12. The first sentence of paragraph (b) of § 1.537–3 is revised to read as follows: "If one corporation owns the stock of another corporation and, in effect, operates the other corporation, the business of the latter corporation may be considered in substance, although not in legal form, the business of the first corporation."

PAR. 13. Section 1.1551 is amended as follows:

(A) Section 1551 is changed by striking out "$60,000" and inserting in lieu thereof "$100,000".

(B) The following historical note is added at the end thereof:

[Sec. 1551 as amended by sec. 205, Small Business Tax Revision Act 1958 (72 Stat. 1680)]

PAR. 14. Paragraph (a) of § 1.1551–1 is amended by striking out "$60,000" and inserting in lieu thereof "$100,000 ($60,000 for taxable years beginning before January 1, 1958)".

Because the changes in regulations previously published as a notice of proposed rule making and the amendments of existing regulations made by this Treasury decision are merely of a clarifying or liberalizing nature or are required by sections 31 and 89(b) of the Technical Amendments Act of 1958 and by section 205 of the Small Business Tax Revision Act of 1958, it is hereby found that it is unnecessary, with respect to such changes and amendments, to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

(Sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: May 8, 1959.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

PARAGRAPH I. The regulations adopted under sections 531 through 537 of the Internal Revenue Code of 1954, as amended, read as follows:

CORPORATIONS USED TO AVOID INCOME TAX ON SHAREHOLDERS

CORPORATIONS IMPROPERLY ACCUMULATING SURPLUS

AUTHORITY: §§ 1.531 to 1.537–3, incl., issued under sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805.

CORPORATIONS USED TO AVOID INCOME TAX ON SHAREHOLDERS

CORPORATIONS IMPROPERLY ACCUMULATING SURPLUS

§ 1.531 Statutory provisions; imposition of accumulated earnings tax.

SEC. 531. *Imposition of accumulated earnings tax.* In addition to other taxes imposed by this chapter, there is hereby imposed for each taxable year on the accumulated taxable income (as defined in section 535) of every corporation described in section 532, an accumulated earnings tax equal to the sum of—

(1) 27½ percent of the accumulated taxable income not in excess of $100,000, plus

(2) 38½ percent of the accumulated taxable income in excess of $100,000.

§ 1.531–1 Imposition of tax.

Section 531 imposes (in addition to the other taxes imposed upon corporations by chapter 1 of the Internal Revenue Code of 1954) a graduated tax on the accumulated taxable income of every corporation described in section 532 and § 1.532–1. In the case of an affiliated group which makes, or is required to make, a consolidated return, see paragraph (a) of § 1.1502–30. All of the taxes on corporations under chapter 1 are treated as one tax for purposes of assessment, collection, payment, period of limitations, etc. See section 535 and §§ 1.535–1, 1.535–2, and 1.535–3 for the definition and determination of accumulated taxable income.

§ 1.532 Statutory provisions; corporations subject to accumulated earnings tax.

SEC. 532. *Corporations subject to accumulated earnings tax*—(a) *General rule.* The accumulated earnings tax imposed by section 531 shall apply to every corporation (other than those described in subsection (b)) formed or availed of for the purpose of avoiding the income tax with respect to its shareholders or the shareholders of any other corporation, by permitting earnings and profits to accumulate instead of being divided or distributed.

(b) *Exceptions.* The accumulated earnings tax imposed by section 531 shall not apply to—

(1) A personal holding company (as defined in section 542).

(2) A foreign personal holding company (as defined in section 552), or

(3) A corporation exempt from tax under subchapter F (section 501 and following).

§ 1.532–1 Corporations subject to accumulated earnings tax.

(a) *General rule.* (1) The tax imposed by section 531 applies to any domestic or foreign corporation (not specifically excepted under section 532(b) and paragraph (b) of this section) formed or availed of to avoid or prevent the imposition of the individual income tax on its shareholders, or on the shareholders of any other corporation, by permitting earnings and profits to accumulate instead of dividing or distributing them. See section 533 and § 1.533–1, relating to evidence of purpose to avoid income tax with respect to shareholders.

(2) The tax imposed by section 531 may apply if the avoidance is accomplished through the formation or use of one corporation or a chain of corporations. For example, if the capital stock of the M Corporation is held by the N Corporation, the earnings and profits of the M Corporation would not be returned as income subject to the individual income tax until such earnings and profits of the M Corporation were distributed to the N Corporation and distributed in turn by the N Corporation to its shareholders. If either the M Corporation or the N Corporation was formed or is availed of for the purpose of avoiding or preventing the imposition of the individual income tax upon the shareholders of the N Corporation, the accumulated taxable income of the corporation so formed or availed of (M or N, as the case may be) is subject to the tax imposed by section 531.

(b) *Exceptions.* The accumulated earnings tax imposed by section 531 does not apply to a personal holding company (as defined in section 542), to a foreign personal holding company (as defined in section 552), or to a corporation exempt from tax under subchapter F of chapter 1 of the Internal Revenue Code of 1954.

(c) *Foreign corporations.* Section 531 is applicable to any foreign corporation, whether resident or nonresident, with respect to any income derived from sources, within the United States, if any of its shareholders are subject to income tax on the distributions of the corporation by reason of being (1) citizens or residents of the United States, or (2) nonresident alien individuals to whom section 871 is applicable, or (3) foreign corporations if a beneficial interest therein is owned directly or indirectly by any shareholder specified in subparagraph (1) or (2) of this paragraph.

§ 1.533 Statutory provisions; evidence of purpose to avoid income tax.

§ SEC. 533. *Evidence of purpose to avoid income tax*—(a) *Unreasonable accumulation determinative of purpose.* For purposes of section 532, the fact that the earnings and profits of a corporation are permitted to accumulate beyond the reasonable needs of the business shall be determinative of the purpose to avoid the income tax with respect to shareholders, unless the corporation by the preponderance of the evidence shall prove to the contrary.

(b) *Holding or investment company.* The fact that any corporation is a mere holding or investment company shall be prima facie evidence of the purpose to avoid the income tax with respect to shareholders.

§ 1.533–1 Evidence of purpose to avoid income tax.

(a) *In general.* (1) The Commissioner's determination that a corporation was formed or availed of for the purpose of avoiding income tax with respect to shareholders is subject to disproof by competent evidence. Section 533(a) provides that the fact that earnings and profits of a corporation are permitted to accumulate beyond the reasonable needs of the business shall be determinative of the purpose to avoid the income tax with respect to shareholders unless the corporation, by the preponderance of the evidence, shall prove to the contrary. The burden of proving that earnings and profits have been permitted to accumulate beyond the reasonable needs of the business may be shifted to the Commissioner under section 534. See §§ 1.534–1 through 1.534–4. Section 533(b) provides that the fact that the taxpayer is a mere holding or investment company shall be prima facie evidence of the purpose to avoid income tax with respect to shareholders.

(2) The existence or nonexistence of the purpose to avoid income tax with respect to shareholders may be indicated by circumstances other than the conditions specified in section 533. Whether or not such purpose was present depends upon the particular circumstances of each case. All circumstances which might be construed as evidence of the purpose to avoid income tax with respect to shareholders cannot be outlined, but among other things, the following will be considered:

(i) Dealings between the corporation and its shareholders, such as withdrawals by the shareholders as personal loans or the expenditure of funds by the corporation for the personal benefit of the shareholders,

(ii) The investment by the corporation of undistributed earnings in assets having no reasonable connection with the business of the corporation (see § 1.537–3), and

(iii) The extent to which the corporation has distributed its earnings and profits.

The fact that a corporation is a mere holding or investment company or has an accumulation of earnings and profits in excess of the reasonable needs of the business is not absolutely conclusive against it if the taxpayer satisfies the Commissioner that the corporation was neither formed nor availed of for the purpose of avoiding income tax with respect to shareholders.

(b) *General burden of proof and statutory presumptions.* The Commissioner may determine that the taxpayer was formed or availed of to avoid income tax with respect to shareholders through the medium of permitting earnings and profits to accumulate. In the case of litigation involving any such determination (except where the burden of proof is on the Commissioner under section 534), the burden of proving such determination wrong by a preponderance of the evidence, together with the corresponding burden of first going forward with the evidence, is on the taxpayer under principles applicable to income tax cases generally. For the burden of proof in a proceeding before the Tax Court with respect to the allegation that earnings and profits have been permitted to accumulate beyond the reasonable needs of the business, see section 534 and §§ 1.534–2 through 1.534–4. For a definition of a holding or investment company, see paragraph (c) of this section. For determination of the reasonable needs of the business, see section 537 and §§ 1.537–1 through 1.537–3. If the taxpayer is a mere holding or investment company, and the Commissioner therefore determines that the corporation was formed or availed of for the purpose of avoiding income tax with respect to shareholders, then section 533 (b) gives further weight to the presumption of correctness already arising from the Commissioner's determination by expressly providing an additional presumption of the existence of a purpose to avoid income tax with respect to shareholders. Further, if it is established (after complying with section 534 where applicable) that earnings and profits were permitted to accumulate beyond the reasonable needs of the business and the Commissioner has therefore determined that the corporation was formed or availed of for the purpose of avoiding income tax with respect to shareholders, then section 533 (a) adds still more weight to the Commissioner's determination. Under such circumstances, the existence of such an accumulation is made determinative of the purpose to avoid income tax with respect to shareholders unless the taxpayer proves to the contrary by the preponderance of the evidence.

(c) *Holding or investment company.* A corporation having practically no activities except holding property and collecting the income therefrom or investing therein shall be considered a holding company within the meaning of section 533 (b). If the activities further include, or consist substantially of, buying and selling stocks, securities, real estate, or other investment property (whether upon an outright or marginal basis) so that the income is derived not only from the investment yield but also from profits upon market fluctuations, the corporation shall be considered an investment

company within the meaning of section 533 (b).

§ 1.533–2 Statement required.

The corporation may be required to furnish a statement of its accumulated earnings and profits, the payment of dividends, the name and address of, and number of shares held by, each of its shareholders, the amounts that would be payable to each of the shareholders if the income of the corporation were distributed, and other information required under section 6042.

§ 1.534 Statutory provisions; burden of proof.

SEC. 534. *Burden of proof*—(a) *General rule.* In any proceeding before the Tax Court involving a notice of deficiency based in whole or in part on the allegation that all or any part of the earnings and profits have been permitted to accumulate beyond the reasonable needs of the business, the burden of proof with respect to such allegation shall—

(1) If notification has not been sent in accordance with subsection (b), be on the Secretary or his delegate, or

(2) If the taxpayer has submitted the statement described in subsection (c), be on the Secretary or his delegate with respect to the grounds set forth in such statement in accordance with the provisions of such subsection.

(b) *Notification by Secretary.* Before mailing the notice of deficiency referred to in subsection (a), the Secretary or his delegate may send by certified mail or registered mail a notification informing the taxpayer that the proposed notice of deficiency includes an amount with respect to the accumulated earnings tax imposed by section 531. In the case of a notice of deficiency to which subsection (e) (2) applies and which is mailed on or before the 30th day after the date of the enactment of this sentence, the notification referred to in the preceding sentence may be mailed at any time on or before such 30th day.

(c) *Statement by taxpayer.* Within such time (but not less than 30 days) after the mailing of the notification described in subsection (b) as the Secretary or his delegate may prescribe by regulations, the taxpayer may submit a statement of the grounds (together with facts sufficient to show the basis thereof) on which the taxpayer relies to establish that all or any part of the earnings and profits have not been permitted to accumulate beyond the reasonable needs of the business.

(d) *Jeopardy assessment.* If pursuant to section 6861 (a) a jeopardy assessment is made before the mailing of the notice of deficiency referred to in subsection (a), for purposes of this section such notice of deficiency shall, to the extent that it informs the taxpayer that such deficiency includes the accumulated earnings tax imposed by section 531, constitute the notification described in subsection (b), and in that event the statement described in subsection (c) may be included in the taxpayer's petition to the Tax Court.

(e) *Application of section.* (1) Notwithstanding any other provision of law, this section shall apply with respect to taxable years to which this subchapter applies and (except as provided in paragraph (2)) to taxable years to which the corresponding provisions of prior revenue laws apply.

(2) In the case of a notice of deficiency for a taxable year to which this subchapter does not apply, this section shall apply only in the case of proceedings tried on the merits after [August 11, 1955] the date of the enactment of this paragraph.

[Sec. 534 as amended by secs. 4 and 5, Act of Aug. 11, 1955 (Pub. Law 367, 84th Cong., 69 Stat. 689); sec. 89(b), Technical Amendments Act 1958 (72 Stat. 1665)]

§ 1.534–1 Burden of proof as to unreasonable accumulations generally.

For purposes of applying the presumption provided for in section 533(a) and in determining the extent of the accumulated earnings credit under section 535 (c) (1), the burden of proof with respect to an allegation by the Commissioner that all or any part of the earnings and profits of the corporation have been permitted to accumulate beyond the reasonable needs of the business may vary under section 534 as between litigation in the Tax Court and that in any other court. In case of a proceeding in a court other than the Tax Court, see paragraph (b) of § 1.533–1.

§ 1.534–2 Burden of proof as to unreasonable accumulations in cases before the Tax Court.

(a) *Burden of proof on Commissioner.* Under the general rule provided in section 534(a), in any proceeding before the Tax Court involving a notice of deficiency based in whole or in part on the allegation that all or any part of the earnings and profits have been permitted to accumulate beyond the reasonable needs of the business, the burden of proof with respect to such allegation is upon the Commissioner if—

(1) A notification, as provided for in section 534 (b) and paragraph (c) of this section, has not been sent to the taxpayer; or

(2) A notification, as provided for in section 534 (b) and paragraph (c) of this section, has been sent to the taxpayer and, in response to such notification, the taxpayer has submitted a statement, as provided in section 534 (c) and paragraph (d) of this section, setting forth the ground or grounds (together with facts sufficient to show the basis thereof) on which it relies to establish that all or any part of its earnings and profits have not been permitted to accumulate beyond the reasonable needs of the business. However, the burden of proof in the latter case is upon the Commissioner only with respect to the relevant ground or grounds set forth in the statement submitted by the taxpayer, and only if such ground or grounds are supported by facts (contained in the statement) sufficient to show the basis thereof.

(b) *Burden of proof on the taxpayer.* The burden of proof in a Tax Court proceeding with respect to an allegation that all or any part of the earnings and profits have been permitted to accumulate beyond the reasonable needs of the business is upon the taxpayer if—

(1) A notification, as provided for in section 534 (b) and paragraph (c) of this section, has been sent to the taxpayer and the taxpayer has not submitted a statement, in response to such notification, as provided in section 534 (c) and paragraph (d) of this section; or

(2) A statement has been submitted by the taxpayer in response to such notification, but the ground or grounds on which the taxpayer relies are not relevant to the allegation or, if relevant, the statement does not contain facts sufficient to show the basis thereof.

(c) *Notification to the taxpayer.* Under section 534 (b) a notification informing the taxpayer that the proposed notice of deficiency includes an amount with respect to the accumulated earnings tax imposed by section 531 may be sent by registered mail (or by certified or registered mail, if the notification is mailed after September 2, 1958) to the taxpayer at any time before the mailing of the notice of deficiency in the case of a taxable year beginning after December 31, 1953, and ending after August 16, 1954. See § 1.534–4 for rules relating to taxable years subject to the Internal Revenue Code of 1939. See section 534 (d) and § 1.534–3 with respect to a notification in the case of a jeopardy assessment.

(d) *Statement by taxpayer.* (1) A taxpayer who has received a notification, as provided in section 534 (b) and paragraph (c) of this section, that the proposed notice of deficiency includes an amount with respect to the accumulated earnings tax imposed by section 531, may, under section 534 (c), submit a statement that all or any part of the earnings and profits of the corporation have not been permitted to accumulate beyond the reasonable needs of the business. Such statement shall set forth the ground or grounds (together with facts sufficient to show the basis thereof) on which the taxpayer relies to establish that there has been no accumulation of earnings and profits beyond the reasonable needs of the business. See paragraphs (a) and (b) of this section for rules concerning the effect of the statement with respect to burden of proof. See §§ 1.537–1 to 1.537–3, inclusive, relating to reasonable needs of the business.

(2) The taxpayer's statement, under section 534 (c) and this paragraph, must be submitted to the Internal Revenue office which issued the notification (referred to in section 534 (b) and paragraph (c) of this section) within 60 days after the mailing of such notification. If the taxpayer is unable, for good cause, to submit the statement within such 60-day period, an additional period not exceeding 30 days may be granted upon receipt in the Internal Revenue office concerned (before the expiration of the 60-day period provided herein) of a request from the taxpayer, setting forth the reasons for such request. See section 534 (d) and § 1.534–3 with respect to a statement in the case of a jeopardy assessment.

§ 1.534–3 Jeopardy assessments in Tax Court cases.

In the case of a jeopardy assessment, a notice of deficiency is required to be sent to the taxpayer by registered mail (or by certified or registered mail, if the notice is mailed after September 2, 1958) within 60 days after the making of the assessment. See section 6861. If a jeopardy assessment is made before the mailing of the deficiency notice, then in the case of a proceeding in the Tax Court, if the deficiency notice informs the tax-

payer that an amount of accumulated earnings tax is included in the deficiency, such notice shall constitute the notification provided for in section 534(b) and paragraph (c) of § 1.534–2. Under such circumstances the statement described in section 534(c) and paragraph (d) of § 1.534–2 shall instead be included in the taxpayer's petition to the Tax Court, if the taxpayer desires to submit such statement. See paragraph (b) of § 1.534–2, relating to burden of proof on the taxpayer.

§ 1.534–4 Taxable years subject to the Internal Revenue Code of 1939.

The rules prescribed in §§ 1.534–1 to 1.534–3, inclusive, apply in any proceeding tried on the merits after August 11, 1955, before the Tax Court and involving a notice of deficiency in surtax imposed by section 102 of the Internal Revenue Code of 1939, for a taxable year subject to such code, based in whole or in part on the allegation that all or any part of the earnings and profits of the taxpayer have been permitted to accumulate beyond the reasonable needs of the business. If a notice of deficiency for a taxable year described in the preceding sentence was mailed before September 11, 1955, a notification mailed before that date shall be effective as fully as though such notification had been mailed before the notice of deficiency was mailed.

§ 1.535 Statutory provisions; accumulated taxable income.

SEC. 535. *Accumulated taxable income*—(a) *Definition.* For purposes of this subtitle, the term "accumulated taxable income" means the taxable income, adjusted in the manner provided in subsection (b), minus the sum of the dividends paid deduction (as defined in section 561) and the accumulated earnings credit (as defined in subsection (c)).

(b) *Adjustments to taxable income.* For purposes of subsection (a), taxable income shall be adjusted as follows:

(1) *Taxes.* There shall be allowed as a deduction Federal income and excess profits taxes (other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940) and income, war profits, and excess profits taxes of foreign countries and possessions of the United States (to the extent not allowable as a deduction under section 164 (b) (6)), accrued during the taxable year, but not including the accumulated earnings tax imposed by section 531, the personal holding company tax imposed by section 541, or the taxes imposed by corresponding sections of a prior income tax law.

(2) *Charitable contributions.* The deduction for charitable contributions provided under section 170 shall be allowed without regard to section 170(b)(2).

(3) *Special deductions disallowed.* The special deductions for corporations provided in part VIII (except section 248) of subchapter B (section 241 and following, relating to the deduction for dividends received by corporations, etc.) shall not be allowed.

(4) *Net operating loss.* The net operating loss deduction provided in section 172 shall not be allowed.

(5) *Capital losses.* There shall be allowed as deductions losses from sales or exchanges of capital assets during the taxable year which are disallowed as deductions under section 1211 (a).

(6) *Long-term capital gains.* There shall be allowed as a deduction the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year (determined without regard to the capital loss carryover provided in section 1212) minus the taxes imposed by this subtitle attributable to such excess. The taxes attributable to such excess shall be an amount equal to the difference between—

(A) The taxes imposed by this subtitle (except the tax imposed by this part) for such year, and

(B) Such taxes computed for such year without including in taxable income the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year (determined with regard to the capital loss carryover provided in section 1212).

(7) *Capital loss carryover.* No allowance shall be made for the capital loss carryover provided in section 1212.

(8) *Bank affiliates.* There shall be allowed the deduction described in section 601 (relating to bank affiliates).

(c) *Accumulated earnings credit*—(1) *General rule.* For purposes of subsection (a), in the case of a corporation other than a mere holding or investment company the accumulated earnings credit is (A) an amount equal to such part of the earnings and profits for the taxable year as are retained for the reasonable needs of the business, minus (B) the deduction allowed by subsection (b) (6). For purposes of this paragraph, the amount of the earnings and profits for the taxable year which are retained is the amount by which the earnings and profits for the taxable year exceed the dividends paid deduction (as defined in section 561) for such year.

(2) *Minimum credit.* The credit allowable under paragraph (1) shall in no case be less than the amount by which $100,000 exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year.

(3) *Holding and investment companies.* In the case of a corporation which is a mere holding or investment company, the accumulated earnings credit is the amount (if any) by which $100,000 exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year.

(4) *Accumulated earnings and profits.* For purposes of paragraphs (2) and (3), the accumulated earnings and profits at the close of the preceding taxable year shall be reduced by the dividends which under section 563 (a) (relating to dividends paid after the close of the taxable year) are considered as paid during such taxable year.

(5) *Cross reference.* For denial of credit provided in paragraph (2) or (3) where multiple corporations are formed to avoid tax, see section 1551.

[Sec. 535 as amended by sec. 31, Technical Amendments Act 1958 (72 Stat. 1631); sec. 205, Small Business Tax Revision Act 1958 (72 Stat. 1680)]

§ 1.535–1 Definition.

(a) The accumulated earnings tax is imposed by section 531 on the accumulated taxable income. Accumulated taxable income is the taxable income of the corporation with the adjustments prescribed by section 535(b) and § 1.535–2, minus the sum of the dividends paid deduction and the accumulated earnings credit. See paragraph (a)(18) of § 1.1502–31 for definition of consolidated accumulated taxable income. See section 561 and the regulations thereunder, relating to the definition of the deduction for dividends paid, and section 535(c) and § 1.535–3, relating to the accumulated earnings credit.

(b) In the case of a foreign corporation, whether resident or nonresident, which files or causes to be filed a return, the accumulated taxable income shall be the taxable income from sources within the United States with the adjustments prescribed by section 535 (b) and § 1.535–2 minus the sum of the dividends paid deduction and the accumulated earnings credit. In the case of a foreign corporation which files no return, the accumulated taxable income shall be the gross income from sources within the United States without allowance of any deductions (including the accumulated earnings credit).

§ 1.535–2 Adjustments to taxable income.

(a) *Taxes*—(1) *United States taxes.* In computing accumulated taxable income for any taxable year, there shall be allowed as a deduction the amount by which Federal income and excess profits taxes accrued during the taxable year exceed the credit provided by section 33 (relating to taxes of foreign countries and possessions of the United States), except that no deduction shall be allowed for (i) the accumulated earnings tax imposed by section 531 (or a corresponding section of a prior law), (ii) the personal holding company tax imposed by section 541 (or a corresponding section of a prior law), and (iii) the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939, for taxable years beginning after December 31, 1940. The deduction is for taxes accrued during the taxable year, regardless of whether the corporation uses an accrual method of accounting, the cash receipts and disbursements method, or any other allowable method of accounting. In computing the amount of taxes accrued, an unpaid tax which is being contested is not considered accrued until the contest is resolved.

(2) *Taxes of foreign countries and United States possessions.* In computing accumulated taxable income for any taxable year, a deduction is allowed for income, war profits, and excess profits taxes accrued during such taxable year to foreign countries or possessions of the United States if the taxpayer chooses the benefits of section 901 for such taxable year. The credit for such taxes provided by section 901 is not allowed against the accumulated earnings tax imposed by section 531. See section 901 (a).

(b) *Charitable contributions.* Section 535 (b) (2) provides that, in computing the accumulated taxable income of a corporation, the deduction for charitable contributions shall be computed without regard to section 170(b)(2). Thus, the amount of charitable contributions made during the taxable year not allowable as a deduction under section 170 by reason of the limitations imposed by section 170(b)(2) shall be allowed as a deduction in computing accumulated taxable income for the taxable year. However, any excess of the amount of the charitable contributions made in a prior taxable year over the

amount allowed as a deduction under section 170 for such year shall not be allowed as a deduction from taxable income in computing accumulated taxable income for the taxable year.

(c) *Special deductions disallowed.* Sections 241 through 248 provide for the allowance of special deductions for such items as partially tax-exempt interest, certain dividends received, dividends paid on certain preferred stock of public utilities, and organizational expenses. Such special deductions, except the deduction provided by section 248 (relating to organizational expenses) shall be disallowed in computing accumulated taxable income.

(d) *Net operating loss.* The net operating loss deduction provided in section 172 is not allowed for purposes of computing accumulated taxable income.

(e) *Capital losses.* (1) Losses from sales or exchanges of capital assets during the taxable year, which are disallowed as deductions under section 1211 (a) in computing taxable income, shall be allowed as deductions in computing accumulated taxable income.

(2) The computation of the capital losses allowable as a deduction in computing accumulated taxable income may be illustrated by the following example:

Example. X Corporation has capital losses of $30,000 which are disallowed under section 1211 (a) for the taxable year ended December 31, 1956. This amount represents a loss of $25,000 from the sale or exchange of capital assets during the taxable year ended December 31, 1956, plus a $5,000 capital loss carryover resulting from the sale or exchange of capital assets during the taxable year ended December 31, 1955. In computing accumulated taxable income for the taxable year ended December 31, 1956, only the loss of $25,000 arising from the sale or exchange of capital assets during that taxable year will be allowed as a deduction.

(f) *Long-term capital gains.* (1) There is allowed as a deduction in computing accumulated taxable income, the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year (determined without regard to the capital loss carryover provided in section 1212) minus the taxes attributable to such excess as provided by section 535 (b) (6). The tax attributable to such excess is the difference between—

(i) The taxes (except the accumulated earnings tax) imposed by subtitle A for such year, and

(ii) The taxes (except the accumulated earnings tax) imposed by subtitle A computed for such year as if taxable income were reduced by the excess of the net long-term capital gain over net short-term capital loss (including the capital loss carryover to such year).

Where the tax (except the accumulated earnings tax) imposed by subtitle A includes an amount computed under section 1201 (a) (2), the tax attributable to such excess is such amount computed under section 1201 (a) (2).

(2) The application of the rule in subparagraph (1) of this paragraph may be illustrated by the following example:

Example. Assume that D Corporation, for the taxable year ended December 31, 1956, has taxable income of $103,000 of which $3,000 is the excess of net long-term capital gain of $12,000 over a net short-term capital loss of $9,000. The $9,000 net short-term capital loss includes a capital loss carryover of $5,000. The amount allowable as a deduction under section 535 (b) (6) and subparagraph (1) of this paragraph is $7,250, computed as follows: Net long-term capital gain less net short-term capital loss (computed without regard to the capital loss carryover) is $8,000 (that is, $12,000 net long-term capital gain less $4,000 net short-term capital loss computed without regard to the capital loss carryover of $5,000). The tax attributable to the excess of net long-term capital gain over net short-term capital loss (computed by taking the capital loss carryover into account) is $750, that is, 25 percent of such excess of $3,000, computed under section 1201 (a) (2). The difference of $7,250 ($8,000 less $750) is the amount allowable as a deduction in computing accumulated taxable income.

(3) Section 631 (c) (relating to gain or loss in the case of disposal of coal) shall have no application in determining the amount of the deduction allowable under section 535 (b) (6).

(g) *Capital loss carryover.* The capital loss carryover provided in section 1212 is not allowed for purposes of computing accumulated taxable income.

(h) *Bank affiliates.* There is allowed the deduction provided by section 601 in the case of bank affiliates (as defined in section 2 of the Banking Act of 1933; 12 U. S. C. 221a (c)).

§ 1.535–3 Accumulated earnings credit.

(a) *In general.* As provided in section 535 (a) and § 1.535–1, the accumulated earnings credit, provided by section 535 (c), reduces taxable income in computing accumulated taxable income. In the case of a corporation, not a mere holding or investment company, the accumulated earnings credit is determined as provided in paragraph (b) of this section and, in the case of a holding or investment company, as provided in paragraph (c) of this section. See paragraph (a) (19) of § 1.1502–31 for the consolidated accumulated earnings credit.

(b) *Corporation which is not a mere holding or investment company*—(1) *General rule.* (i) In the case of a corporation, not a mere holding or investment company, the accumulated earnings credit is the amount equal to such part of the earnings and profits of the taxable year which is retained for the reasonable needs of the business, minus the deduction allowed by section 535 (b) (6) (see paragraph (f) of § 1.535–2, relating to the deduction for long-term capital gains). In no event shall the accumulated earnings credit be less than the minimum credit provided for in section 535 (c) (2) and subparagraph (2) of this paragraph. The amount of the earnings and profits for the taxable year retained is the amount by which the earnings and profits for the taxable year exceed the dividends paid deduction for such taxable year. See section 561 and §§ 1.561–1 and 1.561–2, relating to the deduction for dividends paid.

(ii) In determining whether any amount of the earnings and profits of the taxable year has been retained for the reasonable needs of the business, the accumulated earnings and profits of prior years will be taken into consideration. Thus, for example, if such accumulated earnings and profits of prior years are sufficient for the reasonable needs of the business, then any earnings and profits of the current taxable year which are retained will not be considered to be retained for the reasonable needs of the business. See section 537 and §§ 1.537–1 and 1.537–2.

(2) *Minimum credit.* Section 535 (c) (2) provides for the allowance of a minimum accumulated earnings credit in the case of a corporation which is not a mere holding or investment company. In the case of such a corporation, this minimum credit shall in no case be less than the amount by which $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958) exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year. See paragraph (d) of this section for the effect of dividends paid after the close of the taxable year in determining accumulated earnings and profits at the close of the preceding taxable year. In determining the amount of the minimum credit allowable under section 535 (c) (2), the needs of the business are not taken into consideration. If the taxpayer has accumulated earnings and profits at the close of the preceding taxable year equal to or in excess of $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958), the credit, if any, is determined without regard to section 535 (c) (2). It is not intended that the provision for the minimum credit shall in any way create an inference that an accumulation in excess of $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958) is unreasonable. The reasonable needs of the business may require the accumulation of more or less than $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958) depending upon the circumstances in the case, but such needs shall not be taken into consideration to any extent in cases where the minimum accumulated earnings credit is applicable. For a discussion of the reasonable needs of the business, see section 537 and §§ 1.537–1, 1.537–2, and 1.537–3.

(3) *Illustrations of accumulated earnings credit.* The computation of the accumulated earnings credit provided by section 535 (c) may be illustrated by the following examples:

Example (1). The X Corporation, which is not a mere holding or investment company, has accumulated earnings and profits in the amount of $75,000 as of December 31, 1955; it has earnings and profits for the taxable year ended December 31, 1956, in the amount of $100,000 and has a dividends paid deduction under section 561 in the amount of $30,000 so that the earnings and profits for the taxable year which are retained in the business amount to $70,000. Assume that it has been determined that the earnings and profits for the taxable year which may be retained for the reasonable needs of the business amount to $55,000 and that a deduction has been allowed under section 535 (b) (6) in the amount of $5,000. Since the earnings and profits at the close of the preceding taxable year, December 31, 1955, exceed $60,000, the minimum credit provided by section 535 (c) (2) will not apply and the

accumulated earnings credit must be computed under section 535 (c) (1) on the basis of the reasonable needs of the business. In this case, the accumulated earnings credit for the taxable year ended December 31, 1956, will be $50,000, computed as follows:

Earnings and profits of the taxable year determined to be retained for the reasonable needs of the business	$55,000
Less: The deduction for long-term capital gains (less applicable tax) allowed under section 535 (b) (6)	5,000
Accumulated earnings credit allowable under section 535 (c) (1)	50,000

Example (2). The Z Corporation which is not a mere holding or investment company, has accumulated earnings and profits in the amount of $15,000 as of December 31, 1958; it has earnings and profits for the taxable year ended December 31, 1959, in the amount of $115,000 and has a dividends paid deduction under section 561 in the amount of $10,000, so that the earnings and profits for the taxable year which are retained amount to $105,000. Assume that it has been determined that the accumulated earnings and profits of the taxable year which may be retained for the reasonable needs of the business amount to $20,000 and that no deduction is allowable for long-term capital gains under section 535 (b) (6). The accumulated earnings credit allowable under section 535 (c) (1) on the basis of the reasonable needs of the business is determined to be only $20,000. However, since the amount by which $100,000 exceeds the accumulated earnings and profits at the close of the preceding taxable year is more than $20,000, the minimum accumulated earnings credit provided by section 535(c)(2) is applicable. The allowable credit will be the amount by which $100,000 exceeds the accumulated earnings and profits at the close of the preceding taxable year, i.e., $85,000 ($100,000 less $15,000 of accumulated earnings and profits at the close of the preceding taxable year).

(c) *Holding and investment companies.* Section 535 (c) (3) provides that, in the case of a mere holding or investment company, the accumulated earnings credit shall be the amount, if any, by which $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958) exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year. Thus, if such a corporation has accumulated earnings equal to or in excess of, $100,000 ($60,000 if the credit is computed for a taxable year beginning before January 1, 1958) at the close of its preceding taxable year, no accumulated earnings credit is allowable in computing the accumulated taxable income. See paragraph (c) of § 1.533–1 for a definition of a holding or investment company.

(d) *Accumulated earnings and profits.* For the purposes of determining the minimum credit provided by section 535 (c) (2) and paragraph (b) (2) of this section, and the credit provided by section 535 (c) (3) and paragraph (c) of this section, dividends paid after the close of any taxable year which are considered paid during such taxable year, shall be deducted from the earnings and profits accumulated at the close of such taxable year. See section 563 and §§ 1.563–1 and 1.563–3, relating to dividends paid after the close of the taxable year.

§ 1.536 Statutory provisions; income not placed on annual basis.

SEC. 536. *Income not placed on annual basis.* Section 443 (b) (relating to computation of tax on change of annual accounting period) shall not apply in the computation of the accumulated earnings tax imposed by section 531.

§ 1.536–1 Short taxable years.

Accumulated taxable income for a taxable year consisting of a period of less than 12 months shall not be placed on an annual basis for the purpose of the accumulated earnings tax imposed by section 531. In such cases accumulated taxable income shall be computed on the basis of the taxable income for such period of less than 12 months, adjusted in the manner provided by section 535 (b) and § 1.535–2.

§ 1.537 Statutory provisions; reasonable needs of the business.

SEC. 537. *Reasonable needs of the business.* For purposes of this part, the term "reasonable needs of the business" includes the reasonably anticipated needs of the business.

§ 1.537–1 Reasonable needs of the business.

(a) *In general.* The term "reasonable needs of the business" includes the reasonably anticipated needs of the business. An accumulation of the earnings and profits (including the undistributed earnings and profits of prior years) is in excess of the reasonable needs of the business if it exceeds the amount that a prudent businessman would consider appropriate for the present business purposes and for the reasonably anticipated future needs of the business. The need to retain earnings and profits must be directly connected with the needs of the corporation itself and must be for bona fide business purposes. See § 1.537–3 for a discussion of what constitutes the business of the corporation. The extent to which earnings and profits have been distributed by the corporation may be taken into account in determining whether or not retained earnings and profits exceed the reasonable needs of the business. See § 1.537–2, relating to grounds for accumulation of earnings and profits.

(b) *Reasonable anticipated needs.* (1) In order for a corporation to justify an accumulation of earnings and profits for reasonably anticipated future needs, there must be an indication that the future needs of the business require such accumulation, and the corporation must have specific, definite, and feasible plans for the use of such accumulation. Such an accumulation need not be used immediately, nor must the plans for its use be consummated within a short period after the close of the taxable year, provided that such accumulation will be used within a reasonable time depending upon all the facts and circumstances relating to the future needs of the business. Where the future needs of the business are uncertain or vague, where the plans for the future use of an accumulation are not specific, definite, and feasible, or where the execution of such a plan is postponed indefinitely, an accumulation cannot be justified on the grounds of reasonably anticipated needs of the business.

(2) Consideration shall be given to reasonably anticipated needs as they exist on the basis of the facts at the close of the taxable year. Thus, subsequent events shall not be used for the purpose of showing that the retention of earnings or profits was unreasonable at the close of the taxable year if all the elements of reasonable anticipation are present at the close of such taxable year. However, subsequent events may be considered to determine whether the taxpayer actually intended to consummate or has actually consummated the plans for which the earnings and profits were accumulated. In this connection, projected expansion or investment plans shall be reviewed in the light of the facts during each year and as they exist as of the close of the taxable year. If a corporation has justified an accumulation for future needs by plans never consummated, the amount of such an accumulation shall be taken into account in determining the reasonableness of subsequent accumulations.

§ 1.537–2 Grounds for accumulation of earnings and profits.

(a) *In general.* Whether a particular ground or grounds for the accumulation of earnings and profits indicate that the earnings and profits have been accumulated for the reasonable needs of the business or beyond such needs is dependent upon the particular circumstances of the case. Listed below in paragraphs (b) and (c) of this section are some of the grounds which may be used as guides under ordinary circumstances.

(b) *Reasonable accumulation of earnings and profits.* Although the following grounds are not exclusive, one or more of such grounds, if supported by sufficient facts, may indicate that the earnings and profits of a corporation are being accumulated for the reasonable needs of the business provided the general requirements under §§ 1.537–1 and 1.537–3 are satisfied:

(1) To provide for bona fide expansion of business or replacement of plant;

(2) To acquire a business enterprise through purchasing stock or assets;

(3) To provide for the retirement of bona fide indebtedness created in connection with the trade or business, such as the establishment of a sinking fund for the purpose of retiring bonds issued by the corporation in accordance with contract obligations incurred on issue;

(4) To provide necessary working capital for the business, such as, for the procurement of inventories; or

(5) To provide for investments or loans to suppliers or customers if necessary in order to maintain the business of the corporation.

(c) *Unreasonable accumulations of earnings and profits.* Although the following purposes are not exclusive, accumulations of earnings and profits to meet any one of such objectives may indicate that the earnings and profits of a corporation are being accumulated beyond the reasonable needs of the business:

(1) Loans to shareholders, or the expenditure of funds of the corporation for the personal benefit of the shareholders;

(2) Loans having no reasonable relation to the conduct of the business made to relatives or friends of shareholders, or to other persons;

(3) Loans to another corporation, the business of which is not that of the taxpayer corporation, if the capital stock of such other corporation is owned, directly or indirectly, by the shareholder or shareholders of the taxpayer corporation and such shareholder or shareholders are in control of both corporations;

(4) Investments in properties, or securities which are unrelated to the activities of the business of the taxpayer corporation; or

(5) Retention of earnings and profits to provide against unrealistic hazards.

§ 1.537–3 **Business of the corporation.**

(a) The business of a corporation is not merely that which it has previously carried on but includes, in general, any line of business which it may undertake.

(b) If one corporation owns the stock of another corporation and, in effect, operates the other corporation, the business of the latter corporation may be considered in substance, although not in legal form, the business of the first corporation. However, investment by a corporation of its earnings and profits in stock and securities of another corporation is not, of itself, to be regarded as employment of the earnings and profits in its business. Earnings and profits of the first corporation put into the second corporation through the purchase of stock or securities or otherwise, may, if a subsidiary relationship is established, constitute employment of the earnings and profits in its own business. Thus, the business of one corporation may be regarded as including the business of another corporation if such other corporation is a mere instrumentality of the first corporation; that may be established by showing that the first corporation owns at least 80 percent of the voting stock of the second corporation. If the taxpayer's ownership of stock is less than 80 percent in the other corporation, the determination of whether the funds are employed in a business operated by the taxpayer will depend upon the particular circumstances of the case. Moreover, the business of one corporation does not include the business of another corporation if such other corporation is a personal holding company, an investment company, or a corporation not engaged in the active conduct of a trade or business.

PAR. II. The amendments made to § 1.1551 are as follows:

(A) Section 1551 is amended by striking out "$60,000" and inserting in lieu thereof "$100,000".

(B) The following historical note is added at the end thereof:

[Sec. 1551 as amended by section 205, Small Business Tax Revision Act 1958 (72 Stat. 1680)]

PAR. III. In paragraph (a) of § 1.1551–1 the dollar amount "$60,000" is deleted and "$100,000 ($60,000 for taxable years beginning before January 1, 1958)" is inserted.

(Paragraphs II and III of this Treasury decision are issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[F.R. Doc. 59–4036; Filed, May 12, 1959; 8:50 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 19]

CHEESES; PROCESSED CHEESES; CHEESE FOODS; CHEESE SPREADS, AND RELATED FOODS; DEFINITIONS AND STANDARDS OF IDENTITY

Spiced Cheeses, Cold-Pack Cheese, Cold-Pack Cheese Food; Notice of Proposal To Amend Standards of Identity

Notice is hereby given that a petition has been filed by Kraft Foods Division of National Dairy Products Corporation, 110 North Franklin Street, Chicago, Illinois, setting forth proposed amendments to the regulations fixing and establishing standards of identity for spiced cheeses, cold-pack cheese, and cold-pack cheese food (21 CFR and 21 CFR, 1957 Supp., 19.670, 19.785, 19.787).

Pursuant to the authority of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended, 70 Stat. 919; 21 U.S.C. 341, 371) and delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (22 F.R. 1045, 23 F.R. 9500), all interested persons are hereby invited to present their views in writing regarding the proposals published below. Such views and comments should be submitted in quintuplicate, addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, Health, Education, and Welfare Building, 330 Independence Avenue SW., Washington 25, D.C., prior to the thirtieth day following the date of publication of this notice in the FEDERAL REGISTER.

It is proposed that:

1. Section 19.670 be amended to provide for 0.2 percent of sorbic acid in spiced cheeses in consumer-sized packages and for the label declaration of such substance. As amended, § 19.670(d) et seq. will read as follows:

§ 19.670 **Spiced cheeses; identity; label statement of optional ingredients.**

* * * * *

(d) Spiced cheeses in the form of slices or cuts in consumer-sized packages may contain not more than 0.2 percent by weight of sorbic acid.

(e) The name of each spiced cheese for which a definition and standard of identity is prescribed by this section is "Spiced cheese," preceded or followed by:

(1) The specific common or usual name of such spiced cheese, if any such name has become generally recognized therefor; or

(2) If no such specific common or usual name has become generally recognized therefor, an arbitrary or fanciful name which is not false or misleading in any particular.

(f)(1) When milk other than cow's milk is used in whole or in part, the name of the cheese includes the statement "made from _____," the blank being filled in with the name or names of the milk used, in order of predominance by weight.

(2) If a spiced cheese in sliced or cut form contains sorbic acid, the label shall bear the statement "Sorbic acid added to retard mold growth" or "Sorbic acid added as a preservative."

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed by this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 19.785 [Amendment]

2. Section 19.785 *Cold-pack cheese, club cheese, comminuted cheese; identity; label statement of optional ingredients* be amended in the following respects:

a. By adding to paragraph (c) the following new subparagraph (6):

(6) Cold-pack cheese in consumer-sized packages may contain not more than 0.2 percent by weight of sorbic acid.

b. By adding to paragraph (e) the following new subparagraph (6):

(6) If cold-pack cheese in consumer-sized packages contains sorbic acid, the label shall bear the statement "Sorbic acid added to retard mold growth" or "Sorbic acid added as a preservative."

§ 19.787 [Amendment]

3. Section 19.787 *Cold-pack cheese food; identity; label statement of optional ingredients* be amended in the following respects:

a. By adding to paragraph (e) the following new subparagraph (7):

(7) Cold-pack cheese food in consumer-sized packages may contain not more than 0.2 percent by weight of sorbic acid.

b. By adding to paragraph (f) the following new subparagraph (8):

(8) If cold-pack cheese food in consumer-sized packages contains sorbic acid, the label shall bear the statement "Sorbic acid added to retard mold growth" or "Sorbic acid added as a preservative."

Dated: May 7, 1959.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 59-4023; Filed, May 12, 1959; 8:47 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petitions for Issuance of Regulation Establishing Tolerance for Polyoxyethylene (20) Sorbitan Monooleate and Polyoxyethylene (20) Sorbitan Tristearate in Certain Frozen Desserts

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), the following notice is issued:

Petitions have been filed by Atlas Powder Company, Wilmington 99, Delaware, proposing the issuance of regulations establishing that polysorbate 80 (polyoxyethylene (20) sorbitan monooleate) and polyoxyethylene (20) sorbitan tristearate may be used as emulsifiers in frozen desserts (other than water ices), the total weight of the solids of such emulsifiers, used singly or in combination, not to exceed 1,000.0 parts per million (0.1 percent) of the finished frozen dessert.

Dated: May 7, 1959.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 59-4022; Filed, May 12, 1959; 8:47 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Withdrawal of Petition for Issuance of Regulation Establishing Tolerance for a Substance Containing Piperonyl Butoxide and Pyrethrins in or on Whole Cheese

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (24 F.R. 2434), Fairfield Chemicals Division, Food Machinery and Chemical Corporation, Post Office Box 1616, Baltimore 3, Maryland, has withdrawn its petition proposing the issuance of a regulation to establish a tolerance of 1.0 part per million (0.0001 percent) of piperonyl butoxide and 0.1 part per million (0.00001 percent) of pyrethrins in or on whole cheese and 50.0 parts per million (0.005 percent) of piperonyl butoxide and 5.0 parts per million (0.0005 percent) of pyrethrins in or on the outer ⅛ inch of the whole cheese as a protectant against cheese mites, Tyroglyphus siro and Tyroglyphus farinae, notice of which was published in the FEDERAL REGISTER of March 25, 1959 (24 F.R. 2311).

The withdrawal with respect to this petition is without prejudice to a future filing.

Dated: May 7, 1959.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 59-4024; Filed, May 12, 1959; 8:48 a.m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

MATERIALS AND EQUIPMENT CONTRACTS

Redelegations of Authority; Amendment

Section 12, Redelegation of Authority, published in the FEDERAL REGISTER March 9, 1955 (20 F.R. 1412), as amended November 15, 1958 (23 F.R. 8938) is hereby amended to read as follows:

SEC. 12. *Materials and equipment contracts.* (a) The Chief of Supply, without monetary limitation, may:

(1) Execute contracts, amendments to contracts, and procurement transactions for materials, equipment and services (excepting personal services and services in connection with the transfer or transmission of electrical energy);

(2) Execute contracts and amendments to contracts for the disposal of surplus personal property;

(3) Authorize the publication of advertisements, notices, or proposals.

(b) The Head of the Procurement Section may exercise the authority delegated to the Chief of Supply when the amount involved does not exceed $50,000.

(c) The Purchasing Agents may exercise the authority delegated to the Chief of Supply when the amount involved does not exceed $2,500.

(Secretary's Order No. 2735, as amended; Secretary's Order No. 2642, as amended, 16 F.R. 6318, 19 F.R. 7417; Departmental Manual, Part 404, chapter 1, paragraph 5, dated September 4, 1958)

Dated: May 5, 1959.

WM. A. PEARL,
Administrator.

[F.R. Doc. 59-4001; Filed, May 12, 1959; 8:46 a.m.]

Bureau of Land Management

NEW MEXICO

Notice of Proposed Withdrawal and Reservation of Lands

MAY 5, 1959.

The United States Department of Agriculture has filed an application, Serial Number NM-056318 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the general mining laws but not the mineral leasing laws. The applicant desires the land for the Forest Service as an administrative site.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, P.O. Box 1251, Santa Fe, New Mexico.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

NEW MEXICO PRINCIPAL MERIDIAN

CARSON NATIONAL FOREST

Questa Administrative Site

T. 29 N., R. 13 E., Unsurveyed
Sec. 32, S½NE¼SE¼, E½SE¼NW¼SE¼, NE¼NE¼SW¼SE¼;
Sec. 33, S½NW¼SW¼, S½NE¼SW¼.

The area described above aggregates 67.50 acres.

E. R. SMITH,
State Supervisor.

[F.R. Doc. 59-4002; Filed, May 12, 1959; 8:46 a.m.]

[82039]

FLORIDA

Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands

MAY 7, 1959.

Plat of survey of the land described below, accepted February 2, 1959, will be officially filed in the Eastern States Land Office, Bureau of Land Management, Department of the Interior, Washington 25, D.C., effective 10:00 a.m., on June 15, 1959.

TALLAHASSEE MERIDIAN, FLORIDA

T. 18 S., R. 16 E.,
Sec. 5, Lot 1 (Island),
Containing 2.46 acres.

This plat represents the survey of an island on the North side of Crystal River which was not included in the original

survey of the township and range described represented upon the plat approved May 28, 1836.

The island is of sand and shell formation, reaching approximately 5 feet above mean high tide. Timber consists of cabbage palm, cedar, and water oak in size from 4 to 24 inches in diameter. Undergrowth is dog-ear cactus and mesquite. A non-inhabitable shack was the only improvement found at the date of survey. The island is well over 50 percent upland in character and has been used as a sort of fishing headquarters.

No application may be allowed under the homestead or small tract or any other nonmineral public land laws unless the lands have already been classified as valuable or suitable for such type of application or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merit. The lands will not be subject to occupancy or disposition until they have been classified.

Applications and selections under nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager, mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

1. Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

2. All valid applications, under the Homestead and Small Tract laws, by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the Act of September 27, 1944 (50 Stat. 747; 43 U.S.C. 274–284, as amended), presented prior to 10:00 a.m., on June 15, 1959, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a.m., on September 14, 1959, will be governed by the time of filing.

3. All valid applications and selections under the non-mineral public land laws, other than those coming under paragraph (1) and (2) above, and applications and offers under the mineral leasing laws, presented prior to 10:00 a.m., on September 14, 1959, will be considered filed simultaneously at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

All inquiries relating to the lands should be addressed to the Manager, Eastern States Land Office, Bureau of Land Management, Department of the Interior, Washington 25, D.C.

H. K. Scholl,
Manager.

[F.R. Doc. 59–4003; Filed, May 12, 1959; 8:46 a.m.]

[Classification J–1]

ALASKA

Small Tract Opening; Amendment

May 5, 1959.

Effective immediately, the tabulation in paragraph 4 of Federal Register Document 59–3421 appearing on page 3163 of the issue for April 23, 1959, is hereby amended to read as set forth below.

Warner T. May,
Operations Supervisor.

U.S. Survey	Lot No.	Acreage	Easements	Advance rental (3 years)	Appraised value
3264---	2	1.23	None	$42	$280
	3	1.19	3	42	280
	4	1.20	None	42	280
	5	0.88	3	39	260
	6	1.26	None	45	300
	7	1.34	None	45	300
	8	1.18	None	45	300
	9	1.24	None	45	300
	10	1.25	None	45	300
	11	1.49	None	45	300
	12	1.25	None	45	300
	13	1.25	None	45	300
3265---	14A	1.04	4/SW	30	200
	14	2.14	3	48	320
	15	2.48	3	51	340
	16	2.50	3	51	340
	17	2.42	2, 3	51	340
	18	2.17	2, 3	51	340
	19	2.05	2	51	340
	20	2.64	2	42	280
	21	2.51	2	42	280
	22	2.50	2	42	280
	23	2.51	2	48	320
	24	2.77	2, 3	51	340
3266---	27	3.65	2	45	300
	30	2.58	1, 2	30	140
	31	2.50	1, 2	30	140
	32	2.50	1, 2	30	140
	33	2.50	1, 2	30	140
	34	2.65	1, 2	30	160
	35	2.22	1, 2	30	180
	36	*2.37	1, 2	30	180
3267---	38	2.17	5	39	260
	39	2.20	5	39	260
	40	2.94	3	39	260
	41	4.31	2, 3, 4/NW	42	280
	42	3.33	4/SW	30	140
	43	4.00	4/SW	30	160
	44	4.67	4/SW	30	180
	45	5.00	4/SW	30	180
	46	2.62	1, 2, 4/NE, SE.	42	280
	47	2.76	1, 2, 4/NE, NW.	42	280
	48	2.95	1, 2, 4/NE	39	260
	49	2.66	1, 2, 4/SE, NE.	39	260
3268---	59	5.00	4/SW	30	200
	60	5.00	4/SW	30	200
	61	5.00	4/SW	30	200
	62	2.50	None	30	180
	63	1.75	None	30	200
	64	1.66	None	30	180
	66	2.01	1, 4/NW, SW.	30	200
	67	1.22	1, 2, 4/NE	30	180
	68	1.33	1, 2, 4/NE	30	200
	69	2.89	1, 2, 4/NE	30	200
	70	2.80	1, 2, 4/NE	33	220
3325---	Tr. B	0.39	None	75	500
	Tr. D	0.74	None	78	520
	Tr. E	4.79	None	225	1,500

[F.R. Doc. 59–4004; Filed, May 12, 1959; 8:46 a.m.]

[Notice 2]

ALASKA

Protraction Diagram

May 6, 1959.

Notice is hereby given that the following protraction diagrams have been placed of record in the files of the Anchorage Land Office, 334 East Fifth Avenue, Anchorage, Alaska and are available for public inspection from 10:00 a.m., to 3:00 p.m., weekdays, except holidays.

This publication does not constitute the official filing of these diagrams, and they may not be used as the basis for description of oil and gas lease offers until regulations are issued by the Secretary of the Interior providing for protraction diagram land descriptions. The diagrams may, however, be presently used as a guide for metes and bounds descriptions as currently required by 43 CFR 192.42(d).

Alaska Protraction Diagrams

Kenai Planning Sheets

1. Index
2. Explanatory Statement
3. Ts. 1 through 4 N., Rs. 1 through 4 W., S.M.
4. Ts. 1 through 4 N., Rs. 5 through 8 W., S.M.
5. Ts. 1 through 4 N., Rs. 9 through 12 W., S.M.
6. Ts. 5 through 8 N., Rs. 1 through 4 W., S.M.
7. Ts. 5 through 8 N., Rs. 5 through 8 W., S.M.
8. Ts. 5 through 8 N., Rs. 9 through 12 W., S.M.
9. Ts. 9 through 10 N., Rs. 1 through 4 W., S.M.
10. Ts. 9 through 11 N., Rs. 5 through 8 W., S.M.
11. Ts. 9 N., Rs. 9 through 10 W., S.M.
12. Ts. 1 through 4 S., Rs. 1 through 4 W., S.M.
13. Ts. 1 through 4 S., Rs. 5 through 8 W., S.M.
14. Ts. 1 through 4 S., Rs. 9 through 12 W., S.M.
15. Ts. 1 through 4 S., Rs. 13 through 15 W., S.M.
16. Ts. 5 through 6 S., Rs. 1 through 4 W., S.M.
17. Ts. 5 through 8 S., Rs. 5 through 8 W., S.M.
18. Ts. 5 through 8 S., Rs. 9 through 12 W., S.M.
19. Ts. 5 through 8 S., Rs. 13 through 15 W., S.M.
20. Ts. 9 through 10 S., Rs. 6 through 8 W., S.M.
21. Ts. 9 through 11 S., Rs. 9 through 12 W., S.M.
22. Ts. 9 through 12 S., Rs. 13 through 16 W., S.M.

Copies of these diagrams are for sale for one dollar ($1.00) per sheet by the Cadastral Engineering Office, Bureau of Land Management, mailing address 334 East Fifth Avenue., Anchorage, Alaska.

Irving W. Anderson,
Manager.

[F.R. Doc. 59–4005; Filed, May 12, 1959; 8:46 a.m.]

Bureau of Mines

ASSISTANT DIRECTOR, HEALTH AND SAFETY ET AL.

Redelegations of Authority With Respect to Land Acquisition, Reimbursement for Moving

The following subparagraph is added to paragraph 205.2.1, Bureau of Mines Manual:

L. *Land acquisition: reimbursement for moving.* The Director is authorized to exercise the authority of the Secretary of the Interior under section 1 of the act of May 29, 1958 (72 Stat. 152), relating to reimbursement of owners and tenants of lands acquired for Department programs for expenses and other losses and damages incurred by them in the process, and as a direct result of such moving of themselves, their families, and their possessions, as is occasioned by such acquisition (Order No. 2840, April 28, 1959, 24 F.R. 3615).

The above authority is redelegated to the Assistant Director—Health and Safety, Assistant Director—Helium, Regional Directors, Regions I through V, and Chief, Division of Administration, Washington Office, and may be redelegated in writing. Each such redelegation shall be published in the FEDERAL REGISTER.

Dated: May 7, 1959.

MARLING J. ANKENY,
Director, Bureau of Mines.

[F.R. Doc. 59-4006; Filed, May 12, 1959; 8:46 a.m.]

CHIEF, BRANCH OF FINANCE

Redelegation of Authority With Respect to Land Acquisition, Reimbursement for Moving

Pursuant to the authority redelegated in subparagraph 205.2.1L, Bureau of Mines Manual, the following redelegation is hereby made:

The Chief, Branch of Finance is authorized to exercise the authority of the Secretary of the Interior under section 1 of the act of May 29, 1958 (72 Stat. 152), relating to reimbursement of owners and tenants of lands acquired for Department programs for expenses and other losses and damages incurred by them in the process, and as a direct result of such moving of themselves, their families, and their possessions, as is occasioned by such acquisition.

W. E. RICE,
Chief,
Division of Administration.

[F.R. Doc. 59-4007; Filed, May 12, 1959; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

SARTORI & BERGER AND TRANSAMERICAN STEAMSHIP CORP.

Notice of Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 8510, between Sartori & Berger (Michigan Ocean Line) and Transamerican Steamship Corporation (Transcaribbean Line) provides for the creation of a conference to be known as the Great Lakes-Venezuela/Colombia/Netherlands Antilles Freight Conference, in the trade from Great Lakes and St. Lawrence River ports of the United States and Canada to ports in Venezuela, Colombia and the Netherlands Antilles.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to this agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: May 8, 1959.

By order of the Federal Maritime Board.

[SEAL] GEO. A. VIEHMANN,
Assistant Secretary.

[F.R. Doc. 59-4025; Filed, May 12, 1959; 8:48 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 8619]

CALIFORNIA AIR CHARTER, INC., AND D. W. MERCER

Notice of Oral Argument in Enforcement Proceeding

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, that oral argument in the above-entitled proceeding is assigned to be held on May 20, 1959, at 10:00 a.m., e.d.s.t., Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., May 5,

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-4034; Filed, May 12, 1959; 8:49 a.m.]

[Docket No. 7141]

HANCOCK-HOUGHTON, MICHIGAN AND DULUTH, MINNESOTA-SUPERIOR, WISCONSIN-PORT ARTHUR-FORT WILLIAMS, ONTARIO, CANADA

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference covering a route between Hancock-Houghton and Duluth-Superior and Port Arthur-Fort Williams, Ontario is assigned to be held on May 26, 1959, at 10:00 a.m., e.d.s.t., Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Ferdinand D. Moran.

This route is covered by an agreement between the United States and Canada dated April 9, 1959.

Dated at Washington, D.C., May 7, 1959.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-4035; Filed May 12, 1959; 8:49 a.m.]

CIVIL SERVICE COMMISSION

SKILLS CRITICAL TO THE NATIONAL SECURITY EFFORT

Notice of Positions for Which There is Determined To Be a Manpower Shortage

Under the provisions of Public Law 85-749, the Civil Service Commission has determined that for the following positions there is a manpower shortage in skills critical to the national security effort:

Faculty positions at the U.S. Naval Academy, Annapolis, Maryland, in the following options:

Aerodynamics; Chemistry; Design; Electrical Engineering; Engineering, General; Mechanical Engineering; Electronics Engineering; Materials Engineering; Mathematics; Mechanics; Metallurgy; Physics; Scientific and/or Engineering.

Faculty positions at the Naval Postgraduate School, Monterey, California, in the following options:

Aerodynamics; Aerology; Chemistry; Design; Electronics; Electrical Engineering, General; Mathematics; Mechanics; Metallurgy; Physics; Scientific and/or Engineering.

For these positions, at the locations shown, agencies may pay travel and transportation costs of new appointees in accordance with travel regulations issued by the Bureau of the Budget.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F.R. Doc. 59-4011; Filed, May 12, 1959; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-18363]

McCOY NATURAL GAS CO.

Order for Hearing, Suspending Proposed Change in Rate, and Allowing Increased Rate To Become Effective

MAY 6, 1959.

McCoy Natural Gas Company (McCoy), on April 6, 1959, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas, subject to the jurisdiction of the Commission. The proposed change is contained in the following designated filing:

Description: Notice of change, dated April 6, 1959.
Purchaser: United Natural Gas Company.
Rate schedule designation: Supplement No. 2 to McCoy's FPC Gas Rate Schedule No. 1.
Effective date: July 1, 1959 (stated effective date is the date proposed by McCoy).

In support of the proposed renegotiated rate increase, McCoy submitted a copy of a letter from its purchaser agreeing to the increased price and a comparative statement purporting to show a disproportionate increase in operating costs as compared to its increase in rates. McCoy also states that the increase in rate will justify a new drilling program

and will enable it to provide necessary maintenance.

The changed rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 2 to McCoy's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that the proposed rate be made effective as hereinafter provided and that McCoy be required to file a bond with the terms and conditions hereinafter prescribed with respect to refunds.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed rate and charge contained in Supplement No. 2 to McCoy's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, the supplement is hereby suspended and the use thereof deferred until July 2, 1959, and thereafter until such further time as it is made effective in the manner hereinafter prescribed.

(C) The rate, charge, and classification set forth in the above-designated supplement shall be effective on July 2, 1959: *Provided, however,* That within 15 days from the date of this order, McCoy shall execute and file with the Secretary of the Commission a corporate surety bond in the amount and conditioned as set out in paragraph (E) below, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved.

(D) Upon execution by McCoy of the corporate surety bond described in paragraph (F) below, and acceptance thereof, evidenced by letter addressed to McCoy by the Secretary of the Commission, the rate, charge, and classification set forth in Supplement No. 2 to McCoy's FPC Gas Rate Schedule No. 1, shall be made effective as of July 2, 1959, subject to further orders of the Commission in this proceeding.

(E) McCoy shall refund to those entitled thereto the portion of the increased rate and charge made effective as of July 2, 1959, found by the Commission in this proceeding not justified, with interest at the rate of six percent per annum from the date of payment to McCoy until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the increased rate or charge effective as of July 2, 1959, for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and one copy), in writing and under oath, to the Commission monthly, or quarterly if McCoy so notifies the Commission within 30 days from the issuance of this order, for each billing period and for each purchaser the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom, as computed under the rate in effect immediately prior to July 2, 1959, and under the rate allowed by this order to become effective, together with the difference in the revenue so computed.

(F) By said corporate bond, McCoy, its corporate surety, and its successors and assigns, jointly and severally, shall be held and firmly bound unto the Federal Power Commission for the use and benefit of those entitled thereto in the sum of $2,500, and said bond shall contain the following provisions:

The condition of this obligation is such that:

Whereas, McCoy Natural Gas Company (herein called McCoy), on April 6, 1959, filed with the Federal Power Commission (herein called Commission) Supplement No. 2 to its FPC Gas Rate Schedule No. 1, proposing an increased rate and charge over which the Commission has exercised jurisdiction; and

Whereas, by order issued_____the Commission suspended the operation of the said proposed supplement, and ordered a hearing to be held concerning the lawfulness of the proposed rate, charge, and classification, subject to the Commission's jurisdiction, as therein set forth, and by said order issued_____the use of such supplement was deferred until July 2, 1959; and

Whereas, a hearing has not been held and this proceeding has not been concluded, and McCoy, pursuant to the provisions of section 4(e) of the Natural Gas Act, having on April 6, 1959, filed a proposed renegotiated rate increase in rate effective as of July 1, 1959; and

Whereas, the Commission, issued its order making the rate, charge, and classification set forth in the aforesaid Supplement No. 2 to McCoy's FPC Gas Rate Schedule No. 1, effective as of July 2, 1959, subject to McCoy furnishing a bond in the sum of $2,500 satisfactory to the Commission, and requiring that McCoy refund any portion of the increased rate and charge made effective as of July 2, 1959, found by the Commission in Docket No. G-18363 not justified;

Now, Therefore, if McCoy, its corporate surety, and its successors and assigns, in conformity with the terms and conditions of the order issued this date, by Federal Power Commission, In the Matter of McCoy Natural Gas Company, Docket No. G-18363, shall:

(1) Well and truly repay at such times and in such amounts, to the persons entitled thereto, and in such manner as may be required by the final order of the Commission in said proceeding, subject to court review thereof, any portion of such rate and charge collected by McCoy after July 2, 1959, as such final order may find not justified, together with interest thereon at the rate of six (6) percent per annum from the date of payment to McCoy until refunded; and

(2) Comply otherwise with the terms and conditions of said order issued_____, and with the provisions of the Natural Gas Act relating thereto, then this obligation shall be terminated, otherwise to remain in full force and effect.

(G) If McCoy in conformity with the terms and conditions of paragraph (E) of this order, makes the refunds as may be required by order of the Commission, the bond shall be discharged, otherwise it shall remain in full force and effect.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-3994; Filed, May 12, 1959; 8:45 a.m.]

[Docket Nos. G-18411, G-18410]

CRESCENT PRODUCTION CO., INC., AND CRESCENT DRILLING CO., INC.

Order for Hearings, Suspending Proposed Changes in Rates and Allowing Increased Rates To Become Effective [1]

MAY 6, 1959.

On April 6, 1959, the above-named Respondents tendered for filing Notices of Change (undated) in their presently effective rate schedules [2] for sales of natural gas subject to the jurisdiction of the Commission. In both cases the effective date is May 7, 1959.[3] The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Respondent	Rate schedule No.	Supplement No.	Purchaser
Crescent Production Co., Inc.	15	4	Arkansas Louisiana Gas Co.
Crescent Drilling Co., Inc.	2	4	Do.

Respondents propose contractually provided periodic increases of 4.5 mills from 12.4377 cents per Mcf to 12.8877 cents per Mcf for gas produced in Colquitt Field, Claiborne Parish, Louisiana.

In addition, the rates and charges here proposed reflect Respondents' interpretation of the tax provisions of the basic contracts. This interpretation appears to be questionable and should be determined after hearing.

The rates and charges so proposed have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

It is deemed advisable to suspend the said proposed rates and charges. This suspension, however, is based on the questionable interpretation of the tax provisions of the basic contracts and only such tax reimbursement portion of

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[1] This order does not provide for the consolidation for hearing of the above dockets, nor should it be so construed.

[2] Crescent Production's rates are in effect subject to order in Docket No. G-17689 (Louisiana severance tax) and subject to order in Docket No. G-15932 (Louisiana gathering tax). Crescent Drilling's rates are in effect subject to order in Docket No. G-17688 (Louisiana severance tax) and subject to order in Docket No. G-17773 (Louisiana gathering tax).

[3] The stated effective date is the first day after expiration of the required thirty days' notice.

the proposed rates shall be subject to refund.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use deferred as hereinafter ordered.

(2) It is necessary and proper in carrying out the provisions of the Natural Gas Act that the proposed rates be made effective as hereinafter provided and that each Respondent be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings be held upon dates to be fixed by notice from the Secretary concerning the lawfulness of the proposed rates and charges contained in Supplement No. 4 to Crescent Production Company's FPC Gas Rate Schedule No. 15 and Supplement No. 4 to Crescent Drilling Company's FPC Gas Rate Schedule No. 2.

(B) Pending the hearing and decision thereon, each of the said supplements is hereby suspended and the use thereof deferred until May 8, 1959, and thereafter until such further time as it is made effective in the manner hereinafter prescribed.

(C) The respective rate, charge and classification set forth in each of the above-designated supplements shall be effective on May 8, 1959: *Provided, however,* That within 20 days from the date of this order each Respondent shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) Each Respondent shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of the rate found by the Commission in this proceeding not justified, together with interest thereon at the rate of six percent per annum from the date of payment to Respondent until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the rate or charge allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and one copy), in writing and under oath, to the Commission monthly, or quarterly if Respondent so elects, for each billing period, and for each purchaser, the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom, as computed under the rate in effect immediately prior to the date upon which the increased rate allowed by this order becomes effective, and under the rate allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As a condition of this order, within 20 days from the date of issuance thereof, each Respondent shall execute and file in triplicate with the Secretary of this Commission its written agreement and undertaking to comply with the terms of paragraph (D) hereof, signed by a responsible officer of the corporation, evidenced by proper authority from the Board of Directors, and accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved, as follows:

Agreement and Undertaking of ---------- To Comply With the Terms and Conditions or Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Rate Changes

In conformity with the requirements of the order issued ----------, in Docket No. G-------, ---------- hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order, and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto this ------ day of ----------.

---------- By ----------

Attest:

---------- (Secretary)

Unless a Respondent is advised to the contrary within 15 days after the date of filing such agreement and undertaking, its agreement and undertaking shall be deemed to have been accepted.

(F) Each Respondent who, in conformity with the terms and conditions of paragraph (D) of this order, makes such refunds as may be required by order of the Commission, shall be discharged of its undertakings; otherwise, it shall remain in full force and effect.

(G) None of the several supplements hereby suspended, nor the rate schedule sought to be altered thereby, shall be charged until the relevant proceeding has been disposed of or until the applicable period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-3995; Filed, May 12, 1959; 8:45 a.m.]

[Docket No. G-18412]

UNION OIL COMPANY OF CALIFORNIA

Order for Hearing and Suspending Proposed Changes in Rates

MAY 6, 1959.

Union Oil Company of California (Union Oil), on April 6, 1959, tendered for filing proposed changes in its presently effective rate schedules for the sale of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of change, undated.

Purchaser: Natural Gas Pipeline Company of America.

Rate schedule designations: (1) Supplement No. 5 to Union Oil's FPC Gas Rate Schedule No. 16.[1] (2) Supplement No. 1 to Union Oil's FPC Gas Rate Schedule No. 23.

Effective dates: (1) May 10, 1959; (2) May 8, 1959 (stated effective dates are the effective dates requested by respondent).

In support of the increased rates and charges, Union Oil states that the proposed rates are provided by the periodic pricing provisions of the basic contracts and that the contracts were negotiated at arm's length.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed changes, and the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the above-designated supplements.

(B) Pending such hearing and decision thereon, Supplement No. 5 to Union Oil's FPC Gas Rate Schedule No. 16 is suspended and the use thereof deferred until October 10, 1959, and Supplement No. 1 to Union Oil's FPC Gas Rate Schedule No. 23 is suspended and the use thereof deferred until October 8, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-3996; Filed, May 12, 1959; 8:45 a.m.]

[1] Supplement No. 4 to Union Oil's FPC Gas Rate Schedule No. 16 is presently in effect subject to refund in Docket No. G-15313.

[Docket Nos. G-18413, G-18415]

TEXAS CO. ET AL. AND CABOT CARBON CO.

Order for Hearings and Suspending Proposed Changes in Rates [1]

MAY 6, 1959.

The above-named Respondents have tendered Notices of Change which propose increased rates and charges in their presently effective rate schedules [2] for sales of natural gas subject to the jurisdiction of the Commission. Respondents propose an effective date of May 10, 1959, and the purchaser in each case is Natural Gas Pipe Line Company of America. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Respondent	Rate schedule	Supp. No.	Date of notice	Date tendered
1. The Texas Co. (operator), et al	133	20	Undated	4-6-59
2. Cabot Carbon Co	22	5	4-3-59	4-8-59

In support of the proposed increased rates and charges The Texas Company (Operator), et al. (The Texas Company), and Cabot Carbon Company (Cabot) cite the periodic pricing provisions of their contracts and state that the contracts were negotiated at arm's length. In addition, The Texas Company states that its increase is needed to compensate seller for the increasing cost of replacing gas reserves and to attract the necessary capital. Cabot states that the periodic pricing arrangement is common in long-term contracts in order to permit initial delivery at a price lower than the contemplated average price during the term of the contract; that progressively higher prices are necessary to compensate seller for increases in the production, development and operating costs which occur as field pressures and field deliverability decline.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending hearings and decision thereon, the aforesaid supplements each hereby is suspended until October 10, 1959, and thereafter until each is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-3997; Filed, May 12, 1959; 8:45 a.m.]

[1] This order does not provide for the consolidation for hearing of the above dockets, nor should it be so construed.

[2] The Texas Company's rates are in effect subject to refund in Docket No. G-14935 and subject to order in Docket No. G-12506. Cabot's rates are in effect subject to refund in Docket No. G-14932 and subject to order in Docket No. G-12539.

[Docket No. G-18414]

PHILLIPS PETROLEUM CO. ET AL.

Order for Hearing and Suspending Proposed Change in Rates

MAY 6, 1959.

Phillips Petroleum Company (Operator) et al. (Phillips) on April 6, 1959, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated April 2, 1959.

Purchaser: Tennessee Gas Transmission Company.

Rate schedule designation: Supplement No. 16 to Phillips' FPC Gas Rate Schedule No. 218.

Effective date: May 7, 1959 (stated effective date is the first day after the required thirty days' notice).

The proposed increase is in the nature of an amendment to a previous increase which was based on a contractual redetermination provision in Phillips' FPC Gas Rate Schedule No. 218. The prior increase was suspended and is now subject to order in Docket No. G-16600.[1]

The increased rates and charges proposed herein have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 16 to Phillips' FPC Gas Rate Schedule No. 218 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 16 to Phillips' FPC Gas Rate Schedule No. 218.

(B) Pending such hearing and decision thereon, said supplement be and hereby is suspended and the use thereof deferred until October 7, 1959, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-3998; Filed, May 12, 1959; 8:45 a.m.]

[1] Present rate is also subject to order in Docket No. G-15752 (Louisiana gas gathering tax).

[Docket No. G-18419]

AMERICAN LOUISIANA PIPE LINE CO.

Order Providing for Hearing and Suspending Proposed Revised Tariff

MAY 6, 1959.

American Louisiana Pipe Line Company (American Louisiana) on April 6, 1959, tendered for filing its FPC Gas Tariff, First Revised Volume No. 1, with the request that it be made effective as of June 1, 1959. The stated purpose of the filing is to provide a "conventional" demand-commodity form of rate in lieu of the cost-of-service rate prescribed by the Commission and presently in effect applicable to the two major sales by American Louisiana to its affiliates Michigan Wisconsin Pipe Line Company and Michigan Consolidated Gas Company. An optional rate for small general service customers is also provided.

Based on actual sales for the calendar year 1958, the proposed tariff would effect an increase of $916,497 in revenues.

The revised tariff proposes to establish a contract demand rate schedule (CD-1) containing a demand charge of $3.61 per Mcf of billing demand and a

commodity charge of 27 cents per Mcf. The monthly minimum bill under that rate schedule would consist of the demand charge plus a commodity minimum equal to purchases at 75 percent load factor. The small general service rate schedule (SG-1) provides for a development rate of 43 cents per Mcf for the first 30 months of service and thereafter a rate of 48 cents per Mcf, which is equal to the proposed CD rate at 56.5 percent load factor.

In support of the proposed revisions American Louisiana submitted a cost of service study utilizing the year 1958, adjusted to reflect certain changes, as the test year. The claimed costs contain several questionable items, including, but not limited to, test year sales figures and classification of certain costs contrary to Commission accepted methods.

Objections to the proposed changes have been submitted by the Michigan and Wisconsin Public Service Commissions and by Lincoln Natural Gas Company, one of the small general service customers.

The proposed changes provided in American Louisiana's FPC Gas Tariff, First Revised Volume No. 1, have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates, charges, classifications, and services contained in American Louisiana's FPC Gas Tariff, as proposed to be amended by First Revised Volume No. 1, and that this proposed revised tariff be suspended and the use thereof deferred as hereinafter provided.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the rates, charges, classifications, and services contained in American Louisiana's FPC Gas Tariff, as proposed to be amended by First Revised Volume No. 1.

(B) Pending such hearing and decision thereon, American Louisiana's FPC Gas Tariff, First Revised Volume No. 1, is suspended until November 1, 1959, and until such further time thereafter as it may be made effective in the manner prescribed by the Natural Gas Act.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-3999; Filed, May 12, 1959; 8:45 a.m.]

[Docket No. G-6819]

C. G. GLASSCOCK OIL CO.

Order Permitting Filing To Be Treated as Amendment to Application for Certificate of Public Convenience and Necessity, Denying Intervention and Setting Date of Hearing; Amendment

MAY 6, 1959.

In the Order Permitting Filing To Be Treated as Amendment to application for Certificate of Public Convenience and Necessity, Denying Intervention and Setting Date of Hearing issued April 30, 1959 and published in the FEDERAL REGISTER on May 7, 1959 (24 F.R. 3710-3711); under "The Commission Orders" change the first paragraph to read as follows:

(A) The "notice of withdrawal" filed by Applicant on November 6, 1958, is hereby accepted as an amendment to the application in Docket No. G-6819 deleting the request for a certificate authorizing the sale of gas produced from the B. Flores Field to Sun Oil Company.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-4000; Filed, May 12, 1959; 8:45 a.m.]

[Docket No. G-12575 etc.]

KEENER OIL CO. ET AL.

Notice of Applications and Date of Hearing

MAY 7, 1959.

In the matters of Keener Oil Company, Docket No. G-12575; The Texas Company, Docket No. G-13076; Hack Drilling Company, Operator, Docket No. G-13077; James A. Wood, Trustee, Operator, Docket No. G-13087; The Atlantic Refining Company, Docket No. G-13098; Union Oil Company of California, Docket No. G-13121; The Atlantic Refining Company, Docket No. G-13126; Sinclair Oil & Gas Company, Docket No. G-13128; Louis H. Martin et al., Docket No. G-13166; Shell Oil Company, Docket No. G-13167; The Texas Company, Docket No. G-13186; Republic Natural Gas Company, Docket No. G-13207; Gulf Oil Corporation, Docket No. G-13208; Magnolia Petroleum Company, Docket No. G-13216; Sinclair Oil & Gas Company, Docket No. G-13220; Aurora Gasoline Company, Docket No. G-13244.

Take notice that each of the above-designated parties hereinafter referred to as Applicants, has filed an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing the respective Applicants to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in their respective applications which are on file with the Commission and open to public inspection.

Applicants produce and propose to sell natural gas for transportation in interstate commerce for resale as indicated below:

Docket Nos., Field and Location, and Purchaser

G-12575; Witcher Field, Oklahoma County, Okla.; Champlin Oil & Refining Co.

G-13076; Todd Northwest Field, Crockett County, Tex.; El Paso Natural Gas Co.

G-13077; Acreage in Nolan County, Tex.; El Paso Natural Gas Co.

G-13087; North Ross Field, Starr County, Tex.; Tennessee Gas Transmission Co.

G-13098; Southwest Camp Creek, Beaver County, Okla.; Northern Natural Gas Co.

G-13121; Camrick Area, Beaver and Texas Counties, Okla.; Kansas-Nebraska Natural Gas Co., Inc.

G-13126; McKinney Field, Clark and Meade Counties, Kans.; Northern Natural Gas Co.

G-13128; San Carlos and E. Edinburg Fields, Hidalgo County, Tex.; Trunkline Gas Co.

G-13166; Acreage in Barber County, Kans.; Cities Service Gas Co.

G-13167; Englewood Field, Clark County, Kans.; Northern Natural Gas Co.

G-13186; Mocane Field, Beaver County, Okla.; Colorado Interstate Gas Co.

G-13207; Adams Ranch Field, Meade County, Kans.; Colorado Interstate Gas Co.

G-13208; Acreage in Beaver County, Okla.; Panhandle Eastern Pipe Line Co.

G-13216; Spraberry Trend Field, Upton County, Tex.; El Paso Natural Gas Co.

G-13220; Lips Field, Roberts County, Tex.; Natural Gas Pipeline Co. of America.

G-13244; Acreage in Barber County, Kans.; Cities Service Gas Co.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on June 16, 1959 at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications; *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the Procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before June 2, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-4028; Filed, May 12, 1959; 8:48 a.m.]

[Docket No. G–16455]

SHELBY GAS CO.

Notice of Application and Date of Hearing

MAY 7, 1959.

Take notice that on September 29, 1958, Shelby Gas Company (Applicant) filed in Docket No. G–16455 an application, pursuant to section 7(b) of the Natural Gas Act, for permission and approval to abandon service to Hope Natural Gas Company (Hope) from the Old State Road Field, Grant District, Ritchie County, West Virginia, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The subject service, covered by a gas sales contract between Applicant and Hope dated December 6, 1956, and on file with the Commission as Shelby Gas Company FPC Gas Rate Schedule No. 1, was authorized by order issued on July 29, 1957, in Docket No. G–11977. Notice of cancellation of the aforesaid contract was filed concurrently with the application herein and is on file as Supplement No. 1 to Shelby Gas Company FPC Gas Rate Schedule No. 1.

Applicant states that the volume of natural gas available for delivery under the contract has declined to the point where it is no longer economically feasible to continue the operation.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on June 10, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before May 31, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59–4029; Filed, May 12, 1959; 8:48 a.m.]

[Docket No. G–16100]

PACIFIC NORTHWEST PIPELINE CORP.

Notice of Date of Hearing

MAY 7, 1959.

On August 22, 1958, Pacific Northwest Pipeline Corporation filed in Docket No. G–16100 an application for a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act. Due notice of the filing of this application has been given, including publication in the FEDERAL REGISTER on September 9, 1958 (23 F.R. 6966).

Take notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held on June 2, 1959 at 10:00 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved and the issues presented in the aforesaid application of Pacific Northwest Pipeline Corporation.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59–4030; Filed, May 12, 1959; 8:49 a.m.]

[Docket No. E–6885]

COMMUNITY PUBLIC SERVICE CO.

Notice of Application

MAY 7, 1959.

Take notice that on April 30, 1959, an application was filed with the Federal Power Commission pursuant to section 204 of the Federal Power Act by Community Public Service Company ("Applicant"), a corporation organized under the laws of the State of Delaware and doing business in the States of New Mexico and Texas, with its principal business office at Fort Worth, Texas, seeking an order authorizing the issuance and renewal of $3,500,000 in maximum principal amount of short-term Promissory Notes. Applicant plans to issue said notes at various times prior to May 31, 1960, as funds are needed by Applicant for construction of utility additions and betterments. The notes are to be issued to Fort Worth banking institutions at the interest rate in effect for such loans on the dates of issue or renewal in Fort Worth, Texas. The proposed Promissory Notes will mature in less than one year from date of issue. Applicant also requests that the authority include the renewal of short-term notes which mature prior to May 31, 1960. Applicant states that the purpose of the short-term bank loans made and proposed is the reimbursement of its treasury for expenditures for construction, completion and improvement of Applicant's facilities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 28th day of May 1959, file with the Federal Power Commission, Washington 25, D.C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59–4031; Filed, May 12, 1959; 8:49 a.m.]

[Docket No. G–16603 etc.]

TRANSCONTINENTAL GAS PIPE LINE CORP. ET AL.

Notice of Severance and Continuance

MAY 7, 1959.

In the matters of Transcontinental Gas Pipe Line Corporation, Docket No. G–16603; Pan American Petroleum Corporation, Docket No. G–16207; Sun Oil Company (Southwest Division), Docket No. G–16526; Republic Natural Gas Company, et al., Docket No. G–16540; R. R. Frankel, Docket No. G–16840; Kerr-McGee Oil Industries, Inc., Docket No. G–17381; Pan American Petroleum Corporation, Docket No. G–17417; Phillips Petroleum Company and Southern Natural Gas Company, Docket No. G–17444; Phillips Petroleum Company, Docket No. G–17447.

Notice is hereby given that the application filed by R. R. Frankel in Docket No. G–16840 in the above-entitled proceeding and scheduled for a hearing to be held on May 18, 1959, at 10:00 a.m., e.d.s.t., is hereby severed therefrom and continued for hearing at a subsequent date to be set by further notice.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59–4032; Filed, May 12, 1959; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

[No. W–277 etc.]

OLIVER J. OLSON & CO. ET AL.

Order With Respect to Certain Petitions

MAY 8, 1959.

The following covers an order entered at a general session of the Interstate Commerce Commission on April 29, 1959, in the matters entitled: No. W–277, Oliver J. Olson & Company contract carrier application (San Mateo, Calif.); No. W–348, Sudden & Chirstenson (coastwise service) contract carrier application; No. W–277 (Sub-No. 9), Oliver J. Olson & Company Extension—Port Hueneme; No. W–277 (Sub 14), Oliver J. Olson & Company Extension—Humboldt Bay; No. W–277 (Sub-No. 17), Oliver J. Olson & Company common carrier application; No. W–277 (Sub-No. 18), Oliver J. Olson & Company Extension—tug and barge;

No. W-277 (Sub-No. 19), Oliver J. Olson & Company Extension—general commodities.

The Order provides that upon consideration of the record in the above-entitled proceeding, and of "(1) Petition of applicant in W-277, dated February 25, 1958, (1) for a declaratory order stating that authority to transport "lumber and lumber products" includes authority to transport "poles and pilings", or in the alternative, (2) for the modification of its operating authority in Nos. W-277, W-348, and W-277 (Sub-Nos. 9, 14, 17, and 18) by the substitution of "lumber and forest products" in lieu of "lumber and lumber products";" and (2) Petition of applicant in No. W-277 (Sub-No. 19), dated September 26, 1958, for reconsideration and replies of protestants; that "the petition in (1) above be, and it is hereby assigned for oral hearing at a time and place to be hereafter fixed; and it is further ordered that the petition in (2) above, be, and it is hereby denied for the reason that the findings of division 1 in No. W-277 (Sub No. 19) are in accordance with the evidence and the applicable law;" and further orders that notice of the petition in (1) above, and of this order be published in the FEDERAL REGISTER.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-4012; Filed, May 12, 1959; 8:46 a.m.]

[Notice 85]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 8, 1959.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with service at intermediate points have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1 (c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 2309 (Deviation No. 3), GILLETTE MOTOR TRANSPORT, INC., P.O. Box 6598, Dallas 35, Tex., filed April 24, 1959. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route, between Oklahoma City, Okla., and Kansas City, Mo., as follows: from Oklahoma City over U.S. Highway 77 to junction U.S. Highway 177, thence over U.S. Highway 177 to junction unnumbered highway at or near Braman, Okla., and thence over such unnumbered highway to the Kansas-Oklahoma State line, and thence over the Kansas Turnpike and access routes to Kansas City and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Oklahoma City and Kansas City, as follows: from Oklahoma City over U.S. Highway 66 to junction U.S. Highway 69 (near Vinita, Okla.), thence over U.S. Highway 69 to junction U.S. Highway 166, thence over U.S. Highway 166 to Baxter Springs, Kans., thence over U.S. Highway 66 to junction Kansas Highway 26 (near Riverton, Kans.), thence over Kansas Highway 26 to Crestline, Kans., thence over U.S. Highway 69 via Godfrey, Kans., to Kansas City, Kans., thence over city streets to Kansas City, Mo., and return over the same route.

No. MC 9876 (Deviation No. 4), THE NATIONAL TRANSPORTATION COMPANY, 251 State Street, Extension, Bridgeport 5, Conn., filed April 28, 1959. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route, between Albany, N.Y., and New York City, N.Y., as follows: From Albany over New York State Thruway and access routes to New York and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent routes: from Perth Amboy, N.J., over unnumbered highway to junction U.S. Highway 9, thence over U.S. Highway 9 to Newark, N.J., thence over U.S. Highway 1 to New Haven, Conn., thence over U.S. Highway 5 to Hartford; from Bridgeport, Conn., over U.S. Highway 1 to Stratford, Conn., thence over Connecticut Highway 113 to Nichols, Conn., thence over Connecticut Highway 65 to Shelton, Conn., thence over U.S. Highway 8 to Torrington, Conn.; from Waterbury, Conn., over Connecticut Highway 8 to Torrington, Conn., thence over Connecticut Highway 4 (formerly Connecticut Highway 49) to junction Connecticut Highway 72 (formerly Connecticut Highway 49), thence over Connecticut Highway 72 to Canaan, Conn., thence over U.S. Highway 7 to Great Barrington, Mass., thence over Massachusetts Highway 23 to junction Massachusetts Highway 71, thence over Massachusetts Highway 71 to the Massachusetts-New York State line, thence over New York Highway 71 to Green River, N.Y., thence over New York Highway 22 to Austerlitz, N.Y., thence over New York Highway 203 to junction U.S. Highway 9, thence over U.S. Highway 9 to Albany; and return over the same routes.

No. MC 30605 (Deviation No. 4), THE SANTA FE TRAIL TRANSPORTATION COMPANY, 433 East Waterman, Broadway and English, Wichita 1, Kans., filed April 3, 1959. Attorney for said carrier, Francis J. Steinbrecher, 80 East Jackson Boulevard, Chicago 4, Ill. Carrier proposes to operate as a *common carrier* by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route, between Hatch, N. Mex., and junction U.S. Highway 260 and New Mexico Highway 180, as follows: from Hatch over New Mexico Highway 26 to junction U.S. Highway 260 and thence over U.S. Highway 260 to junction New Mexico Highway 180 at Central, N. Mex., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent routes: from Hot Springs over U.S. Highway 85 to Hatch; and from Silver City, N. Mex., over New Mexico Highway 180 to junction U.S. Highway 85; and return over the same routes.

No. MC 48022 (Deviation No. 2), INLAND EXPRESS, INC., 28 Travis Street, Allston, Mass., filed April 27, 1959. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route, between Boston, Mass., and Worcester, Mass., as follows: from Boston over Massachusetts Highway 9 to Worcester and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Boston and Worcester over U.S. Highway 20.

No. MC 65967 (Deviation No. 1), WILSON TRUCK COMPANY, INC., 176 Lafayette Street, Nashville, Tenn., filed April 23, 1959. Attorney for said carrier, John Womack, 176 Lafayette Street, Nashville, Tenn. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route, between Atlanta, Ga., and Loganville, Ga., as follows: from Atlanta over Atlanta Northeast Expressway and access routes to junction Georgia Highway 120, thence over Georgia Highway 120 to Lawrenceville, Ga., and thence over Georgia Highway 20 to Loganville and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Atlanta and Loganville over U.S. Highway 78.

No. MC 76266 (Deviation No. 2), MERCHANTS MOTOR FREIGHT, INC., 2625 Territorial Road, St. Paul 14, Minn., filed April 27, 1959. Carrier proposes to operate as a *common carrier* by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route, between junction Nebraska Highways 44 and 10, and Brush, Colo., as follows: from junction Nebraska Highways 44 and 10 over Nebraska Highway 44 to junction U.S. Highway 34, and thence over U.S. Highway 34 to Brush and return over the same route, for operating convenience only, serving no intermediate

points. The notice indicates that the carrier is presently authorized to transport the same commodities between the same deviation points as follows: from junction Nebraska Highways 44 and 10 over Nebraska Highway 10 to junction U.S. Highway 30, thence over U.S. Highway 30 to junction U.S. Highway 138, and thence over U.S. Highway 138 to Brush.

MOTOR CARRIER OF PASSENGERS

No. MC 1940 (Deviation No. 4), TRAILWAYS OF NEW ENGLAND, INC., 400 Trailways Building, 1200 Eye Street NW., Washington 5, D.C., filed April 29, 1959. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers,* over a deviation route, between Nashua and Concord, N.H., as follows: from junction of Everett Highway and U.S. Highway 3, approximately 3 miles south of Nashua over the said Everett Highway to the junction of New Hampshire Highway 9 in the city of Concord and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers between Nashua and Concord over U.S. Highway 3.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-4016; Filed, May 12, 1959; 8:47 a.m.]

[Notice 238]

MOTOR CARRIER APPLICATIONS

MAY 8, 1959.

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers or brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other procedural matters with respect thereto.

All hearings will be called at 9:30 o'clock a.m., United States standard time (or 9:30 o'clock a.m., local daylight saving time), unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Sub No. 171), filed March 9, 1959. Applicant: ROADWAY EXPRESS, INC., 147 Park Street, Akron 9, Ohio. Applicant's attorney: William O. Turney, 2001 Massachusetts Avenue NW., Washington 6, D.C. Authority sought to operate as a *common carrier,* by motor vehicle, transporting: *General commodities,* except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Riegel Paper Corporation plant at or near Acme (Columbus County), N.C., as an off-route point in connection with applicant's authorized regular route operations to and from Wilmington, N.C. Applicant is authorized to conduct operations in Alabama, Connecticut, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE: Applicant states that its service will be on call and demand.

HEARING: June 24, 1959, at the U.S. Court Rooms, Uptown Post Office Building, Raleigh, N.C., before Joint Board No. 103, or, if the Joint Board waives its right to participate, before Examiner Richard H. Roberts.

No. MC 2368 (Sub No. 6), filed March 10, 1959. Applicant: BRALLEY TRUCKING COMPANY, INCORPORATED, 200 Stockton Street, Richmond, Va. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum products,* in bulk, from Fredericksburg, Va., to points in Pendleton County, W. Va.

HEARING: June 29, 1959, at the U.S. Court Rooms, Richmond, Va., before Joint Board No. 245, or, if the Joint Board waives its right to participate, before Examiner Richard H. Roberts.

No. MC 3854 (Sub No. 1), filed April 16, 1959. Applicant: BURTON LINES, INC., P.O. Box 395, Reidsville, N.C. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW., Washington 4, D.C. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Materials, supplies and equipment used in the marketing, packing, storing, processing and handling of tobacco,* between points in Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Pennsylvania, New Jersey, New York, Tennessee, Kentucky, West Virginia, and Ohio. Applicant is authorized to conduct operations in Maryland, North Carolina, South Carolina, Virginia, and the District of Columbia.

HEARING: June 25, 1959, at the U.S. Court Rooms, Uptown Post Office Building, Raleigh, N.C., before Examiner Richard H. Roberts.

No. MC 7555 (Sub No. 33), filed April 20, 1959. Applicant: TEXTILE MOTOR FREIGHT, INC., Ellerbe, N.C. Applicant's attorney: S. S. Eisen, 140 Cedar Street, New York 6, N.Y. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Canned goods* and *baby foods,* (1) from points in Monroe, Orleans, and Wayne Counties, N.Y., to points in Georgia, Louisiana and South Carolina, and (2) from points in Adams County, Pa., to points in Alabama, Florida, Georgia, Louisiana, North Carolina, and South Carolina, and *damaged* and *rejected shipments* and *pallets, empty containers and other such incidental facilities* used in transporting the commodities specified in this application on return. Applicant is authorized to conduct operations in Maryland, South Carolina, North Carolina, Pennsylvania, New Jersey, New York, Alabama, Florida, Virginia, West Virginia, Delaware, and Connecticut.

HEARING: June 23, 1959, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Leo A. Riegel.

No. MC 10761 (Sub No. 81), filed March 27, 1959. Applicant: TRANSAMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit 9, Mich. Authority sought to operate as a *common carrier,* by motor vehicle, transporting: *General commodities,* except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving Scottdale, Pa., as an off-route point in connection with applicant's authorized regular route operations between Pittsburgh, Pa., and Harrisburg, Pa., over U.S. Highways 30 and 11 and the Pennsylvania Turnpike. Applicant is authorized to conduct operations in Michigan, Indiana, Illinois, Pennsylvania, Ohio, Missouri, Kentucky, Wisconsin, New York, Connecticut, Iowa, Nebraska, Massachusetts, Oklahoma, Texas, Arkansas, and Kansas.

HEARING: June 15, 1959, at the Fulton Building, 101–115 Sixth Street, Pittsburgh, Pa., before Examiner David Waters.

No. MC 29964 (Sub No. 11), filed March 27, 1959. Applicant: COCHRANE TRANSPORTATION COMPANY, a corporation, 1622 Ninth Street Road, Richmond, Va. Applicant's attorney: Glenn F. Morgan, 1006–1008 Warner Building, Washington 4, D.C. Authority sought to operate as a *common carrier,* by motor vehicle, over regular and irregular routes, transporting: *Paper, paperboard,* and *paper or pulpboard products,* serving West Point, Va., as an off-route point in connection with applicant's authorized regular route operations between Hopewell, Va., and Philadelphia, Pa., and between Philadelphia, Pa., and New York, N.Y. in Certificate No. MC 29964. Applicant is authorized to conduct operations in Virginia, Pennsylvania, New York, Maryland, the District of Columbia, New Jersey, and Delaware.

HEARING: June 29, 1959, at the U.S. Court Rooms, Richmond, Va., before Joint Board No. 108, or, if the Joint Board waives its right to participate, before Examiner Richard H. Roberts.

No. MC 47323 (Sub No. 5), filed April 29, 1959. Applicant: TAJON TRUCKING CO., a corporation, 818 Frick Building, Pittsburgh 19, Pa. Applicant's attorney: Arthur J. Diskin, 302 Frick Building, Pittsburgh 19, Pa. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Coal,* in dump trucks, from points in Butler, Venango, Beaver, Lawrence, and Mercer Counties, Pa., to points in Ashtabula, Lake, Mahoning, Columbiana, and Trumbull Counties, Ohio, and *empty containers or other such incidental facilities* (not specified) used in transporting coal on return. Applicant is authorized to conduct operations in New York, Ohio, and Pennsylvania.

HEARING: June 15, 1949, at the Fulton Building, 101–115 Sixth Street, Pittsburgh, Pa., before Examiner David Waters.

No. MC 50132 (Sub No. 58), filed March 6, 1959. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, Ill. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Canned fruits* and *vegetables*, from Lumberton, N.C., to points in Illinois, Indiana, Iowa, Kentucky, Missouri, Ohio, Tennessee, and Wisconsin. Applicant is authorized to conduct operations in Illinois, Louisiana, Arkansas, Missouri, Tennessee, Kansas, Kentucky, North Carolina, South Carolina, Mississippi, Alabama, Georgia, Virginia, Indiana, Ohio, West Virginia, Nebraska, and Iowa.

NOTE: A proceeding has been instituted under section 212(c) to determine whether applicant's status is that of a common or contract carrier in No. MC 50132 (Sub No. 38).

HEARING: June 24, 1959, at the U.S. Court Rooms, Uptown Post Office Building, Raleigh, N.C., before Examiner Richard H. Roberts.

No. MC 61505 (Sub No. 22), filed March 25, 1959. Applicant: G. R. MYERS MOTOR TRANSPORTATION, INC., 500 Beech Row, Barberton, Ohio. Applicant's attorney: Edwin C. Reminger, 75 Public Square, Suite 1316, Cleveland 13, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrought iron, copper, and brass*, pipe, insulated or not insulated, metal jacketed, and the following *materials, parts, and supplies*, when used or useful in the installation of steel boilers: *Asphalt, caulking compounds, roofing fittings, sheets or wire iron, asbestos fibres*, and *copper sheeting*, between Barberton, Ohio, on the one hand, and, on the other, points in Delaware, and the Upper Peninsula of Michigan. Applicant is authorized to conduct operations in Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, Virginia, West Virginia, and the District of Columbia.

HEARING: June 26, 1959, at the Old Post Office Building, Public Square and Superior Avenue, Cleveland, Ohio, before Examiner David Waters.

No. MC 65993 (Sub No. 5), filed April 27, 1959. Applicant: H. P. WESLEY, Belvidere Road, Mounted Route 12, Phillipsburg, N.J. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City 6, N.J. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities, including Class A and B explosives*, between points in New Jersey and Pennsylvania within 40 miles of Phillipsburg, N.J., and Easton, Pa., including Phillipsburg, N.J., and Easton, Pa. Applicant is authorized to conduct operations in New Jersey and Pennsylvania.

HEARING: June 15, 1959, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Harold W. Angle.

No. MC 70662 (Sub No. 89), filed May 3, 1959. Applicant: CANTLAY & TANZOLA, INC., 2550 East 28th Street, Los Angeles 58, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products* (except wax from Richmond, Calif., to Phoenix and Tucson, Ariz.), in bulk, in tank vehicles, from points in Alameda, Contra Costa, San Diego, and Ventura Counties, Calif., to points in Arizona, and *rejected and contaminated shipments* of the above commodities on return. Applicant is authorized to conduct operations in Arizona, California, Utah, Nevada, Montana, Idaho, New Mexico, Colorado, and Wyoming.

HEARING: May 22, 1959, at the New Mint Building, 133 Hermann Street, San Francisco, Calif., before Joint Board No. 47, or, if the Joint Board waives its right to participate, before Examiner F. Roy Linn.

No. MC 78062 (Sub No. 41), filed April 14, 1959. Applicant: BEATTY MOTOR EXPRESS, INC., Jefferson Avenue Extension, Washington, Pa. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Boxes, fibreboard*, other than corrugated, without wooden frames, knocked down flat, in packages, from Harmony, Butler County, Pa., to points in Ohio on and east of a line beginning at Sandusky, Ohio, thence southwest along Ohio Highway 4 to Bucyrus, thence west along U.S. Highway 30N to Williamstown, thence southeast along Ohio Highway 31 to Marysville, thence southeast along Ohio Highway 33 to Columbus, thence south along U.S. Highway 23 to the Ohio-Kentucky State line, those in West Virginia and Rochester and Buffalo, N.Y., and *empty containers or other such incidental facilities* (not specified) used in transporting the above commodities on return. Applicant is authorized to conduct operations in Pennsylvania, Ohio, Delaware, West Virginia, Maryland, Illinois, Indiana, Kentucky, New Jersey, New York, Virginia, and the District of Columbia.

NOTE: A proceeding has been instituted under section 212(c) to determine whether applicant's status is that of a common or contract carrier in No. MC 78062 (Sub. No. 30).

HEARING: June 16, 1959, at the Fulton Building, 101–115 Sixth Street, Pittsburgh, Pa., before Examiner David Waters.

No. MC 80847 (Sub No. 4) (CORRECTION), filed April 8, 1959, published at Page 3341, issue April 29, 1959. Applicant: J. B. ACTON, INC., 2103 Southwest Boulevard, Tulsa, Okla. Applicant's attorney: James W. Wrape, 2111 Sterick Building, Memphis 3, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oil-field equipment, machinery*, and *materials*, between points in the Kansas City, Mo.-Kansas City, Kans., Commercial Zone as defined by the Commission in 31 M.C.C. 5 and 54 M.C.C. 288. Applicant is authorized to transport the same commodities between points in Kansas, Oklahoma, Texas, New Mexico, Arkansas, and Louisiana.

NOTE: The purpose of this republication is to correct the underlining of the commodities.

HEARING: Remains as assigned June 19, 1959, at the New Hotel Pickwick, Kansas City, Mo., before Joint Board No. 36.

No. MC 101075 (Sub No. 58), filed April 29, 1959. Applicant: TRANSPORT, INC., 1215 Center Avenue, Moorhead, Minn. Applicant's attorney: Donald A. Morken, 1100 First National-Soo Line Building, Minneapolis 2, Minn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, from Mandan, N. Dak., and points within ten miles thereof, to points in Minnesota, and *rejected shipments* on return. Applicant is authorized to conduct operations in Iowa, Michigan, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

HEARING: June 1, 1959, in Room 926, Metropolitan Building, Second Avenue South and Third Street, Minneapolis, Minn., before Joint Board No. 24.

No. MC 103993 (Sub No. 118), filed April 7, 1959. Applicant: MORGAN DRIVE-AWAY, INC., 509 Equity Building, Elkhart, Ind. Applicant's attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from all points in Ohio to all points in the United States. Applicant is authorized to conduct operations throughout the United States.

HEARING: July 8, 1959, at the New Post Office Building, Columbus, Ohio, before Examiner David Waters.

No. MC 106398 (Sub No. 115), filed January 30, 1959. Applicant: NATIONAL TRAILER CONVOY, INC., 1916 North Sheridan Road, Tulsa, Okla. Applicant's attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Outboard boats*, not exceeding 18' in length, from the site of the North American Manufacturing Corp. plant at Warsaw, Ind., to points in the United States. Applicant is authorized to conduct operations throughout the United States.

HEARING: June 17, 1959, at the U.S. Court Rooms, Indianapolis, Ind., before Examiner David Waters.

No. MC 106398 (Sub No. 118), filed April 27, 1959. Applicant: NATIONAL TRAILER CONVOY, INC., 1916 North Sheridan Road, Tulsa, Okla. Applicant's attorney: Harold G. Hernly, 1624 Eye Street NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from points in Maryland except Elkton, Baltimore, and Rockville, Md., to all points in the United States except Mount Clemens, Flint and Detroit, Mich. Applicant is authorized to conduct operations throughout the United States.

HEARING: June 12, 1959, at the Offices of the Interstate Commerce Commission,

Washington, D.C., before Examiner David Waters.

No. MC 106760 (Sub No. 39), filed April 16, 1959. Applicant: WHITEHOUSE TRUCKING, INC., 2905 Wayne Street, Toledo 9, Ohio. Applicant's attorney: Robert W. Loser, 317 Chamber of Commerce Building, Indianapolis, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete, knocked down or in sections, *including all component parts, materials, supplies and fixtures*, and, when shipped with such buildings, *accessories* used in the erection, construction and completion thereof, between points in Indiana and Ohio, on the one hand, and, on the other, points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Tennessee. Applicant is authorized to conduct operations in Illinois, Indiana, Kentucky, Massachusetts, Michigan, New York, Ohio, Pennsylvania, West Virginia, Wisconsin, New Jersey, Maine, New Hampshire, Connecticut, Vermont, and Rhode Island.

HEARING: July 6, 1959, at the New Post Office Building, Columbus, Ohio, before Examiner David Waters.

No. MC 107295 (Sub No. 60), filed December 24, 1958. Applicant: PRE-FAB TRANSIT CO., a corporation, Farmer City, Ill. Applicant's attorney: Mack Stephenson, 208 East Adams Street, Springfield, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete, knocked down, or in sections, *including all component parts, materials, supplies, and fixtures*, and when shipped with such buildings, *accessories* used in the erection, construction, and completion thereof, between points in Illinois, Indiana, Michigan, Wisconsin, Ohio, Arkansas, Iowa, Kentucky, Missouri, and Tennessee, on the one hand, and, on the other, points in Alaska. Applicant is authorized to conduct operations in Illinois, Indiana, Michigan, Wisconsin, Ohio, Arkansas, Iowa, Kentucky, Missouri, Tennessee, Texas, South Carolina, West Virginia, Alabama, Florida, Georgia, Kansas, Louisiana, Minnesota, Mississippi, Nebraska, New York, Oklahoma, Pennsylvania, New Mexico, Utah, Massachusetts, North Dakota, South Dakota, Wyoming, Colorado, Maryland, Connecticut, Rhode Island, District of Columbia, Maine, New Hampshire, Vermont, Wisconsin, and Nevada.

HEARING: July 2, 1959, at the New Post Office Building, Columbus, Ohio, before Examiner David Waters.

No. MC 107515 (Sub No. 315), filed March 25, 1959. Applicant: REFRIGERATED TRANSPORT CO., INC., 290 University Avenue SW., Atlanta, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil shortening*, from Indianapolis, Ind., to Atlanta, Ga., Birmingham, Ala., Jacksonville, Fla., and Greensboro, N.C. Applicant is authorized to conduct operations in Arizona, Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, California, New Mexico, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.

HEARING: June 22, 1959, at the U.S. Court Rooms, Indianapolis, Ind., before Examiner David Waters.

No. MC 108068 (Sub No. 29), filed April 3, 1959. Applicant: U. S. A. C. TRANSPORT, INC., 457 West Fort Street, Detroit 26, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Races* and *bearings*, the loading, unloading or transportation of which, because of size, weight, shape or fragile character, require the use of special equipment, special rigging, or special handling, between Muskegon, Mich., on the one hand, and, on the other, points in the United States.

NOTE: Applicant states the races referred to are large rings, over-dimensional in size, in which the bearings, ball or roller, float or rotate; that the races and/or bearings are 11 feet in diameter or more, ranging in individual weights from 5,000 to 6,540 pounds. Applicant further states that return transportation is required for further processing of the original shipment.

HEARING: June 29, 1959, at the Federal Building, Detroit, Mich., before Examiner David Waters.

No. MC 108449 (Sub No. 84) (REPUBLICATION), filed March 23, 1959, published issue of FEDERAL REGISTER of April 29, 1959. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road "C", St. Paul 13, Minn. Applicant's attorney: A. J. Bieberstein, 121 West Doty Street, Madison 3, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk and and in bags, from Des Moines and Mason City, Iowa, and points within 10 miles of each, to points in Wisconsin, Illinois, Missouri, Kansas, Nebraska, South Dakota, and Minnesota. Applicant is authorized to conduct operations in Illinois, Iowa, Michigan, Minnesota, North Dakota, South Dakota, and Wisconsin.

NOTE: The purpose of this republication is to remove "in specialized vehicles", which was in error.

HEARING: Remains as assigned June 2, 1959, in Room 926, Metropolitan Building, Second Avenue, South and Third Streets, Minneapolis, Minn., before Examiner Herbert L. Hanback.

No. MC 110284 (Sub No. 11), filed March 30, 1959. Applicant: H. W. MILLER TRUCKING COMPANY, a corporation, P.O. Box 115, West Durham Station, Durham, N.C. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW., Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies* and *equipment* used in packing, processing, protecting and handling of unmanufactured leaf tobacco, between points in North Carolina, South Carolina, Georgia, Florida, Tennessee, Kentucky, Virginia, Maryland, Pennsylvania, Connecticut, and Massachusetts. Applicant is authorized to conduct operations in Georgia, Maryland, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia, and West Virginia.

HEARING: June 25, 1959, at the U.S. Court Rooms, Uptown Post Office Building, Raleigh, N.C., before Examiner Richard H. Roberts.

No. MC 112617 (Sub No. 53), filed May 4, 1959. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 5135, Cherokee Station, Louisville 5, Ky. Applicant's attorney: Leonard A. Jaskiewicz, Munsey Building, Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar* and *coal tar products*, in bulk, in tank vehicles, from points in Butler County, Ohio, to points in Kentucky, and *rejected shipments* of the above-specified commodities and *empty containers or other such incidental facilities* (not specified) on return. Applicant is authorized to conduct operations in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, New York, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

HEARING: June 11, 1959, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 37.

No. MC 113475 (Sub No. 7), filed April 6, 1959. Applicant: RAWLINGS TRUCK LINE, INC., Purdy, Va. Applicant's attorney: Henry E. Ketner, State Planters Bank Building, Richmond 19, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Virginia on and east of a line beginning at the Virginia-North Carolina State line and extending along Virginia Highway 8 to junction U.S. Highway 11, thence on and east of U.S. Highway 11 to the Virginia-West Virginia State line, to points in North Carolina, South Carolina, Georgia, Florida, Alabama, Kentucky, Tennessee, Indiana, Illinois, Ohio, Pennsylvania, West Virginia, Michigan, the District of Columbia, Maryland, Delaware, New Jersey, New York, Connecticut, Massachusetts, Vermont, New Hampshire, Rhode Island, and Maine. Applicant is authorized to conduct operations in Delaware, Maryland, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

NOTE: Applicant states no duplicating authority with present authority is sought.

HEARING: June 30, 1959, at the U.S. Court Rooms, Richmond, Va., before Examiner Richard H. Roberts.

No. MC 114552 (Sub No. 9), filed March 3, 1959. Applicant: A. D. SENN, doing business as SENN TRUCKING COMPANY, P.O. Box 25, Silverstreet, S.C. Applicant's attorney: Frank A. Graham, Jr., 707 Security Federal Building, Columbia 1, S.C. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Lumber*, except plywood and veneer, from points in Alabama, Delaware, Florida, Georgia, Kentucky, Maryland, New

Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia, and the District of Columbia, to points in North Carolina except points in Buncombe, Chatham, Cherokee, Columbus, Cumberland, Franklin, Guilford, Harnett, Henderson, Lee, Macon, Orange, Rockingham, Transylvania and Union Counties, N.C. Applicant is authorized to conduct operations in Alabama, Delaware, Florida, Georgia, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

HEARING: June 23, 1959, at the Wade Hampton Hotel, Columbia, S.C., before Examiner Richard H. Roberts.

No. MC 115841 (Sub No. 57), filed March 23, 1959. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, P.O. Box 2169, Birmingham, Ala. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Cleveland, Ohio, to points in Arizona, California, Colorado, and Texas. Applicant is authorized to conduct operations in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Washington, Wisconsin, and the District of Columbia.

HEARING: June 25, 1959, at the Old Post Office Building, Public Square and Superior Avenue, Cleveland, Ohio, before Examiner David Waters.

No. MC 116516 (Sub No. 2), filed March 27, 1959. Applicant: THOMAS W. KEY, doing business as KEY TRUCKING, 528 Stout Street, Princeton, Ind. Applicant's attorney: William J. Guenther, 1511–14 Fletcher Trust Building, Indianapolis, Ind. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk, in closed hopper-type vehicles, from the site of National Stock Yards (St. Clair County) and East St. Louis, Ill., to Princeton, Ind. Applicant is authorized to conduct operations in Illinois and Indiana.

HEARING: June 19, 1959, at the U.S. Court Rooms, Indianapolis, Ind., before Joint Board No. 160, or, if the Joint Board waives its right to participate, before Examiner David Waters.

No. MC 117427 (Sub No. 4), filed March 9, 1959. Applicant: G. G. PARSONS, doing business as G. G. PARSONS TRUCKING COMPANY, P.O. Box 746, North Wilkesboro, N.C. Applicant's attorney: Francis J. Ortman, 1366 National Press Building, Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dehydrated or sun cured alfalfa meal and pellets*, from points in Fulton, Pickaway, Pauling, Defiance and Putnam Counties, Ohio, to points in North Carolina, South Carolina, Virginia, Georgia, and Florida. Applicant is authorized to conduct operations in Ohio, Michigan, North Carolina, South Carolina, Virginia, Georgia, Florida, Tennessee, and Alabama.

NOTE: Applicant is also authorized to conduct operations as a contract carrier in Permit No. MC 116145, transporting glass bottles from Mount Vernon, Ohio, to points in North Carolina, South Carolina, and Rocky Mount, Va., and empty containers on return; therefore, dual operations under Section 210 may be involved.

HEARING: June 25, 1959, at the Old Post Office Building, Public Square and Superior Avenue, Cleveland, Ohio, before Examiner David Waters.

No. MC 117475 (Sub No. 4), filed April 22, 1959. Applicant: INTERSTATE TRANSPORT, INC., P.O. Box 502, Sioux Falls, S. Dak. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk and in bags, in specialized vehicles, from Rapid City, S. Dak., and points within ten (10) miles thereof, to points in North Dakota.

HEARING: June 16, 1959, at the North Dakota Public Service Commission, Bismarck, N. Dak., before Joint Board No. 158.

No. MC 118664 (REPUBLICATION), filed December 15, 1958, published in the FEDERAL REGISTER of April 29, 1959. Applicant: DON KIRKMAN, doing business as KIRKMAN REFRIGERATED TRANSPORTATION, 122 Hudson, Nampa, Idaho. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, frozen vegetables*, and *frozen fish*, between the Seattle area, Grandview, Auburn, and Yakima, Wash., the Portland area and Salem, Oreg., Burley, Nampa, and Boise, Idaho, and the San Francisco Bay area, San Martin, Watsonville, Fresno, Newman, and Sunnyside, Calif.

NOTE: The subject application was tendered under section 7 of the Transportation Act of 1958. As it was filed after the statutory date for filing applications under section 7 of that Act it will be handled as an application for authority under the applicable provisions of Part II of the Interstate Commerce Act.

HEARING: Remains as assigned June 3, 1959, at the Idaho Public Utilities Commission, State House, Boise, Idaho, before Examiner Michael B. Driscoll.

No. MC 118754, filed March 2, 1959. Applicant: WILLIAM RUFUS WISE, doing business as W. R. WISE, 512 Penn Street, Edgefield, S.C. Applicant's attorney: Howard L. Burns, Greenwood, S.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dressed lumber*, from points in South Carolina to points in North Carolina, Tennessee, Georgia, and Florida. *Fertilizer*, from Augusta, Ga., to points in South Carolina. *Insecticides* and *poisons*, from points in Florida to points in South Carolina.

HEARING: June 22, 1959, at the Wade Hampton Hotel, Columbia, S.C., before Examiner Richard H. Roberts.

No. MC 118801, filed March 20, 1959. Applicant: H. E. DAVIS AND E. R. DAVIS, doing business as H. E. & E. R. DAVIS, Buckingham, Va. Applicant's attorney: Henry E. Ketner, State-Planters Bank Building, Richmond 19, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Raw kyanite*, from Pamplin, Cullen, and Dillwyn, Va., to Ironton, Ohio, and *refractories, including fire brick, fire clay, plastic fire brick* and *high temperature cement* in 100-pound bags, loaded on pallets, from Ironton, Ohio, to Roanoke, Salem, Lynchburg, Christiansburg, and Norfolk, Va.

HEARING: June 29 1959, at the U.S. Court Rooms, Richmond, Va., before Examiner Richard H. Roberts.

No. MC 118809 (Sub No. 1), filed March 27, 1959. Applicant: M. M. OTT, doing business as M. M. OTT PRODUCE, Bridge Street, Bamberg, S.C. Applicant's attorney: W. D. Rhoad, Bamberg, S.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Tampa and Miami, Fla., and New Orleans, La., to Columbia and Bamberg, S.C., and Raleigh, N.C., and points within 15 miles of each, and *empty containers or other such incidental facilities* (not specified) used in transporting bananas on return.

HEARING: June 22, 1959, at the Wade Hampton Hotel, Columbia, S.C., before Examiner Richard H. Roberts.

No. MC 118812, filed March 24, 1959. Applicant: ABLE S. PERRY, doing business as PERRY TRUCKING COMPANY, 4115 Bremner Boulevard, Richmond, Henrico County, Va. Applicant's attorney: Henry E. Ketner, State Planters Bank Building, Richmond 19, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Purina chows* and *raw materials, including cage layna, hog chow meal, goat feed, and pigeon feed*, from Richmond, Va., and points in Henrico County, Va., within one mile thereof, to Waldorf, Md., points in the District of Columbia, and Delaware, and to Wilson and Raleigh, N.C., and (2) *Soy beans*, from Richmond, Va., and points in Henrico County within one mile thereof, to Wilson and Raleigh, N.C. *Purina chows* and *raw materials, including cage layna, hog chow meal, goat feed and pigeon feed, soy bean meal* and *crimped corn*, from Waldorf, Md., and Wilson and Raleigh, N.C., to Richmond, Va., and points in Henrico County, Va., within one mile thereof.

HEARING: June 30, 1959, at the U.S. Court Rooms, Richmond, Va., before Examiner Richard H. Roberts.

No. MC 118842, filed April 2, 1959. Applicant: C. & G. INC., Box 66, 703 East Main Street, Versailles, Ohio. Applicant's attorney: John P. McMahon, 44 East Broad Street, Columbus 15, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poultry* and *eggs*, and *materials, containers* and *supplies* used in the packaging and shipping of poultry and eggs, between points in Illinois, Indiana, Massachusetts, Michigan, New Jersey, New York, Ohio, and Pennsylvania.

NOTE: Applicant states that the commodity description, materials, containers and supplies used in the packaging and shipping of poultry and eggs includes but is not limited to such items as wooden and cardboard boxes, plastic bags, parchment paper, wax paper, egg filler-flat trays, egg flats, egg fillers, wooden and cardboard egg cases, egg cartons, frozen egg cans and paper tape.

HEARING: July 3, 1959, at the New Post Office Building, Columbus, Ohio, before Examiner David Waters.

No. MC 118846, filed April 3, 1959. Applicant: DALE JESSUP, R.R. No. 6, Martinsville, Ind. Applicant's attorney: Ferdinand Born, 1017–19 Chamber of Commerce Building, Indianapolis 4, Ind. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hides* and *wool*, from points in Utah to points in Massachusetts and Pennsylvania; (2) *animal and poultry feed*, from points in Illinois and Iowa to points in Utah.

NOTE: Applicant states that the request for authority to transport wool is done as a precautionary measure for wool comes under the exemption. However, there might be instances that a shipment of both wool and hides will be made in the same vehicle.

HEARING: June 22, 1959, at the U.S. Court Rooms, Indianapolis, Ind., before Examiner David Waters.

No. MC 118860, filed April 6, 1959. Applicant: JOHN M. STIVASON, 95 South Edgewood, Grosse Pointe Shores, Mich. Applicant's attorney: Kit F. Clardy, Olds Tower, Lansing, Mich. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Roofing* and *roofing materials*, from the site of the Lloyd A. Fry Roofing Company plant at Detroit, Mich., to Summit, Ill., and to points in Indiana and Ohio on and north of a line beginning at the Illinois-Indiana State line near Dyer, Ind., and extending along U.S. Highway 30 to the Indiana-Ohio State line, thence continue along U.S. Highway 30 to junction U.S. Highway 30S, thence along U.S. Highway 30S to junction Ohio Highway 31 at Kenton, Ohio, thence along Ohio Highway 31 to junction U.S. Highway 33 at Marysville, Ohio, thence along U.S. Highway 33 to junction U.S. Highway 50 at Athens, Ohio, thence along U.S. Highway 50 to the Ohio-West Virginia State line, including points on the highways indicated, and *empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodities on return.

HEARING: June 29, 1959, at the Federal Building, Detroit, Mich., before Examiner David Waters.

No. MC 118878, filed April 17, 1959. Applicant: MARVIN BELT, doing business as MARVIN BELT COMPANY, 6506 Kolb Street, Allen Park, Mich. Applicant's attorney: Victor J. Schaeffner, 4053 Penobscot Building, Detroit 26, Mich. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer* and *malt products*, and *empty cases and bottles, or other such incidental facilities* used in transporting beer and malt products, between Milwaukee, Wis., and Detroit, Mich.

HEARING: June 30, 1959, at the Federal Building, Detroit, Mich., before Examiner David Waters.

No. MC 118892, filed April 22, 1959. Applicant: JONATHAN A. LAWSON, 3159 Bracken, Cincinnati 11, Ohio. Applicant's attorneys: Gorman, Davis and Hengelbrok, 805 Tri-State Building, Cincinnati 2, Ohio. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick* and *stone*, between points in Indiana, Kentucky, and Ohio.

HEARING: July 8, 1959, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 208, or, if the Joint Board waives its right to participate, before Examiner David Waters.

No. MC 118906, filed April 29, 1959. Applicant: CALVIN CHASTEEN, JR., 3944 Floral Avenue, Cincinnati 12, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Face brick*, from points in Johnson, Lawrence, and Morgan Counties, Ind., Beaver County, Pa., and Barboursville and Charleston, W. Va., to points in Adams, Brown, Butler, Clermont, Clinton, Hamilton, Highland, and Warren Counties, Ohio; and *empty containers or other such incidental facilities* used in transporting face brick, on return.

HEARING: July 6, 1959, at the New Post Office Building, Columbus, Ohio, before Examiner David Waters.

No. MC 118907, filed April 29, 1959. Applicant: J.W. HOWARD, doing business as BELL TRUCKING CO., 635 Mt. View Avenue, Pineville, Ky. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber* and *wood products*, from points in Bell, Clay, Harlan, Jackson, Knox, Leslie, and Perry Counties, Ky., to points in Georgia, Indiana, Illinois, North Carolina, Ohio, Tennessee, and Virginia; (2) *Household goods* as defined by the Commission, between points in Bell, Harlan, and Knox Counties, Ky., and points in Indiana, Ohio, Tennessee, and Virginia; (3) *Used mining machinery, equipment and parts*, from points in Bell, Clay, Harlan, Jackson, Knott, Knox, Leslie, Letcher, and Perry Counties, Ky. to points in Ohio, Tennessee, and Virginia; (4) *Manufactured feed* for animals and livestock in packages and bags, and *flour* and *meal* for humans in packages and bags, from St. Louis, Mo., and points in Indiana, Illinois, and Ohio to points in Bell, Clay, Harlan, Jackson, Knott, Knox, Leslie, Letcher, and Perry Counties, Ky.; (5) *Lumber* and *wood products* from points in Georgia to points in Bell, Harlan, and Knox Counties, Ky., (6) *canned goods* and *catchup* in bottles, from points in Indiana and Ohio to points in Bell, Clay, Harlan, Jackson, Knott, Knox, Leslie, Letcher, and Perry Counties, Ky., (7) *Candy*, from Chicago, Ill., to points in Bell, Clay, Harlan, Jackson, Knott, Knox, Leslie, Letcher, and Perry Counties, Ky.

HEARING: June 12, 1959, at the County Court House, Knoxville, Tenn., before Examiner Isadore Freidson.

MOTOR CARRIERS OF PASSENGERS

No. MC 3647 (Sub No. 252), filed March 3, 1959. Applicant: PUBLIC SERVICE COORDINATED TRANSPORT, 180 Boyden Avenue, Maplewood, N.J. Applicant's attorney: Richard Fryling, Law Department, 180 Boyden Avenue, Maplewood, N.J. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *Passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passengers, between Newark, N.J., and Jersey City, N.J., from the Public Service Terminal, in Newark, over Park Place to junction Saybrook Place, thence over Saybrook Place to junction McCarter Highway, thence over McCarter Highway to junction access routes leading to Stickel Bridge, thence over access roads and Stickel Bridge to the Charles Fisher Ramp, in Harrison, N.J., thence over the Charles Fisher Ramp to junction Harrison Avenue, thence over Harrison Avenue to junction Jersey City-Newark Turnpike, in Kearny, N.J., thence over Jersey City-Newark Turnpike to Newark Avenue in Jersey City, thence over Newark Avenue to junction U.S. Highway 1, thence over U.S. Highway 1 to junction Tonnelle Avenue Traffic Circle (formerly known as New Jersey Highway 25 and New Jersey Highway 1), and return over the same route to Stickel Bridge, Newark, N.J., thence over access roads to junction McCarter Highway, thence over McCarter Highway to junction Mulberry Street, thence over Mulberry Street to junction Raymond Boulevard, serving all intermediate points. Applicant is authorized to conduct operations in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia.

NOTE: Applicant indicates that it proposes to join at junction Tonnelle Avenue Traffic Circle (formerly known as New Jersey Highway 25 and New Jersey Highway 1) with authority issued to it in Docket No. MC 3647 (Sub Nos. 15 and 29), issued June 29, 1953.

HEARING: June 1, 1959, at the New Jersey Board of Public Utility Commissioners, State Office Building, Raymond Boulevard, Newark, N.J., before Joint Board No. 119.

No. MC 3647 (Sub No. 260), filed April 7, 1959. Applicant: PUBLIC SERVICE COORDINATED TRANSPORT, a corporation, 180 Boyden Avenue, Maplewood, N.J. Applicant's attorney: Richard Fryling, General Counsel, Law Department, Public Service Coordinated Transport (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *Passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, within Clifton, N.J., from junction Van Houten Avenue and Broad Street, Clifton, N.J., over Van Houten Avenue to junction Mt. Prospect Avenue, thence over Mt. Prospect Avenue to junction Brighton Avenue, thence over Brighton Avenue to junction Bloomfield Avenue, Clifton, N.J., and return over the same route, serving all intermediate points. Applicant is authorized to conduct operations in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania,

Rhode Island, Vermont, Virginia, and the District of Columbia.

HEARING: June 16, 1959, at the New Jersey Board of Public Utility Commissioners, State Office Building, Raymond Boulevard, Newark, N.J., before Joint Board No. 119.

No. MC 109312 (Sub No. 28) (CORRECTION), filed February 11, 1959, published at page 1775, issue March 11, 1959. Applicant: DE CAMP BUS LINES, A CORPORATION, 30 Allwood Road, Clifton, N.J. Applicant's attorney: James F. X. O'Brien, 17 Academy Street, Newark 2, N.J. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, between West Orange, N.J., and Livingston, N.J.: in West Orange, from junction Main Street and Northfield Avenue, along Main Street and Mt. Pleasant Avenue to Livingston, thence along Mt. Pleasant Avenue to junction Mt. Pleasant Avenue and Livingston Avenue, and return from junction Livingston Avenue and Mt. Pleasant Avenue, in Livingston, along Mt. Pleasant Avenue to West Orange, thence along Mt. Pleasant Avenue, Municipal Plaza and Main Street, to junction Main Street and Northfield Avenue, serving all intermediate points.

NOTE: The purpose of this republication is to show that applicant seeks authority to serve all intermediate points. The hearing in the application was called April 6, 1959, at the New Jersey Board of Public Utility Commissioners, State Office Building, Raymond Boulevard, Newark, N.J., before Joint Board No. 119, and continued to April 28, 1959, when some witnesses were heard, and the hearing was again continued to May 12, 1959. (It is probable that the hearing of applicant's testimony will not be completed prior to May 15, 1959.)

APPLICATIONS FOR BROKERAGE LICENSES

MOTOR CARRIERS OF PASSENGERS

No. MC 12702, filed April 6, 1959. Applicant: ARTHUR J. GRIMES, 250 Dover Point Road, Dover, N.H. Applicant's attorney: Frank Daniels, 11 Beacon Street, Boston, Mass. Authority sought to operate as a *Broker* (BMC 5) at Dover, N.H., in arranging for transportation in interstate or foreign commerce by motor vehicle, of: *Passengers and their baggage,* in special or charter service, in round trip all-expense tours, beginning and ending at points in New Hampshire, and extending to points in the United States (including Alaska).

NOTE: Applicant states he has been associated with Interstate Passenger Service, Inc., holder of Certificate MC 35670 and Sub numbers thereunder.

HEARING: June 11, 1959, at the New Hampshire Public Service Commission, Concord, N.H., before Joint Board No. 186.

No. MC 12704, filed April 16, 1959. Applicant: CHIYE TERAZAWA, doing business as CHI'S TOURS, 3720 South Ninth East, Salt Lake City, Utah. Applicant's attorney: Bartley G. McDonough, 455 East Fourth South, Salt Lake City 11, Utah. Authority sought to operate as a *Broker (BMC 5)* at Salt Lake City, Utah, in arranging for transportation in interstate or foreign commerce by motor vehicle, of: *Passengers and their baggage,* in special or charter service, in round-trip, all-expense tours, beginning and ending at points in Salt Lake County, Utah, and extending to points in the United States.

NOTE: Applicant states that also included will be personally conducted all-expense package tours.

HEARING: June 16, 1959, at the Utah Public Service Commission, Salt Lake City, Utah, before Joint Board No. 207.

No. MC 12705, filed April 16, 1959. Applicant: MARGARET B. LUND, doing business as MARGARET LUND TOURS, 2114 South 11th East, Salt Lake City, Utah. Applicant's attorney: Bartly G. McDonough, 455 East Fourth South, Salt Lake City 11, Utah. Authority sought to operate as a *Broker (BMC 5),* at Salt Lake City, Utah, in arranging for transportation in interstate or foreign commerce by motor vehicle, of: *Passengers and their baggage,* in special or charter service, in round trip all-expense tours, beginning and ending (1) at points in Arizona and Idaho, and extending to points in Salt Lake County, Utah; and (2) beginning and ending at points in Salt Lake County, Utah, and extending to points in the United States.

NOTE: Applicant states that also included will be personally conducted all-expense package tours.

HEARING: June 16, 1959, at the Utah Public Service Commission, Salt Lake City, Utah, before Joint Board No. 207.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 47142 (Sub No. 66), filed April 21, 1959. Applicant: C. I. WHITTEN TRANSFER COMPANY, a corporation, 200 19th Street, Huntington, W. Va. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Class A, B and C explosives, ammunition,* and *ingredients, and component parts of explosives;* and *empty containers* used in the transportation of the above-described commodities, between Gainesville, Va., and points within five miles of Gainesville, and Andrews Air Force Base, Md. Applicant is authorized to conduct operations in Alabama, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Vermont, West Virginia, and the District of Columbia.

No. MC 107496 (Sub No. 135), filed May 1, 1959. Applicant: RUAN TRANSPORT CORPORATION, 408 Southeast 30th Street, Des Moines, Iowa. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum products,* in bulk, in tank vehicles, from Madison and Milwaukee, Wis., to South Beloit, Ill. Applicant is authorized to conduct operations in Iowa, Illinois, Wisconsin, Minnesota, Missouri, Nebraska, South Dakota, North Dakota, Kansas, Ohio, Kentucky, Indiana, Colorado, Oklahoma, Arkansas, Louisiana, and Texas.

No. MC 108068 (Sub No. 30), filed May 4, 1959. Applicant: U. S. A. C. TRANSPORT, INC., 457 West Fort Street, Detroit 26, Mich. Applicant's attorney: Paul F. Sullivan, Sundial House, 1821 Jefferson Place NW., Washington 6, D.C. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Missiles, space vehicles, space satellites,* and *parts thereof* requiring special equipment for their transportation; *equipment* and *parts* of such missiles, space vehicles and satellites and *mobile launching, guidance, monitoring, and control units,* when such equipment, parts, and units are incidental to, and transported in connection with, such missiles, space vehicles, or satellites, and the return of *shipper-owned or Government-owned trailers* which have been used in the outbound transportation of the foregoing commodities, between points in San Diego County, Calif., to Patrick Air Force Base (Cape Canaveral), Fla. Applicant is authorized to conduct operations throughout the United States.

No. MC 115782 (Sub No. 5), filed April 29, 1959. Applicant: CLYDE H. VAN METER AND NAOMI VAN METER, a Partnership, doing business as VAN METER TRUCKING CO., 927 East Minnesota Street, Indianapolis, Ind., Applicant's attorney: Robert C. Smith, 512 Illinois Building, Indianapolis 4, Ind. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from Indianapolis, Ind., to points in Indiana (except points in that portion of Indiana on, south and west of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 36 to Indianapolis, and thence along Indiana Highway 37 to the Indiana-Kentucky State line). Applicant is authorized to conduct operations in Indiana.

NOTE: Applicant states it holds the identical authority applied for herein in Permit MC 115782 Sub 3 restricted to service to be performed under a continuing contract or contracts with four named shippers. Applicant states the purpose of this application is to perform the same service for two additional contracting shippers, Swift & Company and The Rath Packing Company.

MOTOR CARRIER OF PASSENGERS

No. MC 2890 (Sub No. 34), filed April 29, 1959. Applicant: AMERICAN BUSLINES, INC., 1341 P Street, Lincoln 8, Nebr. Applicant's attorney: Currey and Dolan, Southern Building, Washington, D.C. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *Passengers and their baggage,* and *express* and *newspapers* in the same vehicle with passengers, (1) between junction unnumbered highway (old U.S. Highway 66) and new U.S. Highway 66 approximately three miles west of Barstow, Calif., (said junction referred to herein as "Barstow Junction") and junction unnumbered highway (old U.S. Highway 66) and new U.S. Highway 66 approximately one mile north of Victorville, Calif. (said junction

referred to herein as "North Victorville Junction"), from Barstow Junction over new U.S. Highway 66 to North Victorville Junction, and return over the same route, serving all intermediate points; (2) between North Victorville Junction, Calif., and junction unnumbered highway (old U.S. Highway 66) and new U.S. Highway 66 approximately three miles southwest of Victorville, Calif., (said junction referred to herein as "South Victorville Junction"), over new U.S. Highway 66, serving no intermediate points, as an alternate route for operating convenience only. Applicant is authorized to conduct operations in New York, New Jersey, Pennsylvania, Maryland, District of Columbia, Ohio, Michigan, Indiana, Illinois, Missouri, Iowa, Montana, South Dakota, Wyoming, Colorado, Oklahoma, Texas, Utah, New Mexico, Arizona, Nevada, and California.

NOTE: Applicant requests that its existing authority over former U.S. Highway 66 between North Victorville Junction and South Victorville Junction, which it wishes to retain, be redescribed as follows: from North Victorville Junction, Calif., over California Highway 18 to Victorville, thence over unnumbered highway (old U.S. Highway 66) to South Victorville Junction, Calif., and return over the same route, serving all intermediate points. Applicant further proposes, if the applied-for authority is granted, to abandon the segment of old U.S. Highway 66 (now an unnumbered highway) between Barstow Junction, Calif., and North Victorville Junction, Calif.

PETITIONS

No. MC 60347 PETITION FOR CLARIFICATION AND MODIFICATION, dated April 23, 1959. Petitioner: WILLIAM HIGGINS & SONS, INC., 143 Perry Street, Buffalo, N.Y. Petitioner's attorney: Robert V. Ginniny, 25 Exchange Street, Rochester 14, N.Y. Applicant is authorized in the above-numbered Certificate to transport: *Heavy machinery, safes, smokestacks, and tanks,* over irregular routes, between points in New York and Pennsylvania within 100 miles of Buffalo, N.Y., including Buffalo. In the instant petition modification is sought to substitute the following for the description presently-contained in the subject Certificate: *Commodities,* the transportation of which because of size or weight require the use of special equipment and of related articles and supplies when their transportation is incidental to the transportation of commodities which by reason of size or weight require special equipment.

No. MC 111320 (Sub No. 23) (PETITION FOR CLARIFICATION AND MODIFICATION), dated April 24, 1959. Petitioner: CURTIS KEAL TRANSPORT COMPANY, INC., East 54th Street and Cleveland Shoreway, Cleveland, Ohio. Petitioner's representative: G. H. Dilla, 3350 Superior Avenue, Cleveland 14, Ohio. Applicant is authorized to transport the following: *New road building machinery and equipment and parts thereof,* from points in Lorain County, Ohio, to points in the United States except Arizona, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, and California. *Returned or rejected shipments* of the above-specified commodities, from the above-specified destination points to the above-designated origin points. *Used road building machinery and equipment,* between points in the United States except Arizona, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, and California. The instant petition seeks clarification or modification of the subject certificate to permit the transportation of *parts and attachments* apart from the unit transported, in the above-described territory.

APPLICATIONS UNDER SECTION 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carrier of property or passengers under section 5(a) and 210a(b) of the Interstate Commerce Act and certain other procedural matters with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F 7032 (HEMINGWAY BROTHERS INTERSTATE TRUCKING CO. — CONTROL — BROOKS TRANSPORTATION CO., INC.), published in the November 13, 1958, issue of the FEDERAL REGISTER on page 8839. Second application filed April 30, 1959, for temporary authority under section 210a(b).

No. MC-F 7113 (BELYEA TRUCK CO.—PURCHASE (PORTION)—FERGUSON TRUCKING CO., INC.), published in the March 4, 1959 (Section 5 application) and March 25, 1959, (first amendment) issues of the FEDERAL REGISTER on pages 1624 and 2337, respectively. Second amendment filed May 4, 1959, to show joinder of CATHERINE MacLEOD SHATTUCK, 165 South McCadden Place, Los Angeles, Calif., ELIZABETH MacLEOD, 20 Harbor Island, Newport Beach, Calif., JANET MacLEOD KLUG, 1515 Serenade Terrace, Corona Del Mar, Calif., and MRS. JOHN (ELIZABETH) MacLEOD, 20 Harbor Island, Newport Beach, Calif., as parties applicant. These persons control HIGHLAND CORPORATION, which, in turn, controls MACCO CORPORATION, the party controlling vendee.

No. MC-F 7188. Authority sought for purchase by ROY L. JONES, INC., 915 McCarty Avenue, Houston, Tex., of the operating rights and property of G. L. "DOC" FIFE AND SON, P.O. Box 1, Natchez, Miss., and for acquisition by ROY L. JONES, also of Houston, of control of such rights and property through the purchase. Applicants' attorney: Austin L. Hatchell, 1009 Perry-Brooks Building, Austin 1, Tex. Operating rights sought to be transferred: *Heavy machinery, contractors' equipment,* and *parts and accessories* therefor, as a *common carrier* over irregular routes, between points in Alabama, Louisiana, and Mississippi, and between points in Alabama, Louisiana and those in Mississippi on and south of U.S. Highway 82, on the one hand, and, on the other, points in Arkansas and Tennessee; *road, levee and dam building equipment and machinery,* between points in Georgia, on the one hand, and, on the other, points in Alabama and Mississippi. Vendee is authorized to operate as a *common carrier* in Louisiana, Arkansas, Oklahoma, Mississippi, Texas, New Mexico, Kansas, Missouri, Tennessee, South Dakota, and North Dakota. Application has been filed for temporary authority under section 210a(b).

No. MC-F 7189. Authority sought for control by SOUTHWEST FREIGHT LINES, INC., 1400 Kansas Avenue, Kansas City 5, Kans., of BULK MOTOR TRANSPORT, INC., 1400 Kansas Avenue, Kansas City 5, Kans., and for acquisition by JOSEPH E. GRINPAS, ROBERT E. CROWLEY, JR., and JOHN L. ROBINSON, also of Kansas City, of control of BULK MOTOR TRANSPORT, INC., through the acquisition by SOUTHWEST FREIGHT LINES, INC. Applicant's attorney: Clarence D. Todd, 1825 Jefferson Place NW., Washington 6, D.C. Operating rights sought to be controlled: *Flour,* in bulk, in tank-type vehicles, as a *common carrier* over irregular routes, from St. Louis, Mo., Chicago, Ill., Detroit, Mich., Cleveland, Marion, and Springfield, Ohio, to points in Illinois, Indiana, Ohio, and the Lower Peninsula of Michigan. SOUTHWEST FREIGHT LINES, INC., is authorized to operate as a *common carrier* in Illinois, Kansas, Missouri, Iowa, Arkansas, Oklahoma, Nebraska, Colorado, Wyoming, Indiana, South Dakota, Texas, and Kentucky. Application has not been filed for temporary authority under section 210a(b).

MOTOR CARRIERS OF PASSENGERS

No. MC-F 7190. Authority sought for purchase by UNION BUS LINES, INC., 315 Continental Avenue, Dallas 7, Tex., of a portion of the operating rights of CONTINENTAL BUS SYSTEM, INC., 315 Continental Avenue, Dallas 7, Tex., and for acquisition by TRANSCONTINENTAL BUS SYSTEM, INC., also of Dallas, of control of such rights through the purchase. Applicants' attorney: Alfred Crager, 315 Continental Avenue, Dallas 7, Tex. Operating rights sought to be transferred: *Passengers and their baggage,* and *express, mail,* and *newspapers,* in the same vehicle with passengers, without restriction, as a *common carrier* over a regular route between Stephenville, Tex., and Hamilton, Tex., serving the intermediate point of Hico, Tex. Vendee is authorized to operate as a *common carrier* in Texas: Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-4017; Filed, May 12, 1959; 8:47 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 8, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15

days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 35415: *Crushed stone—Greencastle, Ind., to Effingham, Ill.* Filed by Illinois Freight Association, Agent (No. 58), for interested rail carriers. Rates on crushed stone, carloads from Greencastle, Ind., to Effingham, Ill.

Grounds for relief: Motor truck competition from wayside gravel pit to jobsite.

Tariff: Supplement 150 to Pennsylvania Railroad tariff I.C.C. 3183.

FSA No. 35416: *Sand and gravel—Indiana points to Shelbyville, Ill.* Filed by Illinois Freight Association, Agent (No. 59), for interested rail carriers. Rates on sand and gravel, carloads from Olin and Terre Haute, Ind., as to rates on sand and gravel, and Standard Pit and Dickason Pit, Ind., as to rates on gravel to Shelbyville, Ill.

Grounds for relief: Motor-truck competition from wayside pits to jobsite.

Tariffs: Supplement 89 to New York Central Railroad tariff I.C.C. 1642. Supplement 115 to Chicago & Eastern Illinois Railroad tariff I.C.C. 144.

FSA No. 35417: *Pipe or tubing—Houston, Tex., to Louisiana points.* Filed by Southwestern Freight Bureau, Agent (No. B–7539), for interested rail carriers. Rates on iron or steel pipe or tubing, carloads from Houston, Tex., to Algiers, Avondale, Fort St. Leon, Goldsboro, Gretna, Harvey, Marrero and Westwego, La.

Grounds for relief: Competition of carriers by barge.

Tariff: Supplement 46 to Southwestern Freight Bureau tariff I.C.C. 4308.

FSA No. 35418: *Grains—St. Louis, Mo., group to Gulf ports for export.* Filed by O. W. South, Jr., Agent (SFA No. A3798), for interested rail carriers. Rates on barley, corn, oats, rye and wheat, in bulk, carloads from St. Louis, Mo., and East St. Louis, Ill., to Baton Rouge and New Orleans, La., Gulfport, Miss., Mobile, Ala., and Pensacola, Fla.

Grounds for relief: Barge competition.

Tariff: Supplement 22 to Southern Freight Tariff Bureau tariff I.C.C. S–22.

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 59–4014; Filed, May 12, 1959; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70–3796]

JERSEY CENTRAL POWER & LIGHT CO. AND GENERAL PUBLIC UTILITIES CORP.

Notice of Proposed Issuance and Sale of Common Stock by Subsidiary and Acquisition Thereof by Holding Company

MAY 6, 1959.

Notice is hereby given that General Public Utilities Corporation ("GPU"), a registered holding company, and its public-utility subsidiary, Jersey Central Power & Light Company ("Jersey Central"), have filed a joint application with the Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b), 9(a), and 10 of the Act as applicable to the proposed transactions which are described below:

Jersey Central proposes to issue and sell to GPU and GPU proposes to acquire from Jersey Central, from time to time, but not later than December 31, 1959, not to exceed 600,000 additional shares of Jersey Central common stock of the par value of $10 per share at a price per share of $10, or an aggregate price of not to exceed $6,000,000. Of the proceeds realized from the sale of said shares (assuming aggregate proceeds of $6,000,000), Jersey Central proposes to apply (a) $1,400,000 thereof to reimburse its treasury in part for expenditures therefrom for construction purposes prior to January 1, 1959, (b) $2,600,000 to prepay short-term notes to banks issued subsequent to December 31, 1958, the proceeds of which have been applied for construction purposes, and (c) the balance thereof, namely $2,000,000, toward its post-1958 construction program or to reimburse its treasury for expenditures therefrom for that purpose. GPU proposes to obtain the funds with which to make such additional investments in Jersey Central out of cash on hand and cash derived from operations and bank borrowings.

Jersey Central's expenses in connection with the proposed transactions are estimated at $9,000, including legal fees of $1,250. It is estimated that GPU's expenses will not exceed $500.

Jersey Central has filed an application with the Board of Public Utility Commissioners of the State of New Jersey for authority to issue and sell the 600,000 shares of capital stock herein proposed, and a copy of the order of that commission will be filed by amendment. The joint application states that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 21, 1959, at 5:30 p.m., request the Commission in writing that a hearing be held on such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said filing which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, the joint application, as filed or as it may be hereafter amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59–4008; Filed, May 12, 1959; 8:46 a.m.]

CUMULATIVE CODIFICATION GUIDE—MAY

A numerical list of the parts of the Code of Federal Regulations affected by documents published to date during May. Proposed rules, as opposed to final actions, are identified as such.